HOUSE OF REPRESENTATIVES—*Wednesday, June 25, 1997*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. WICKER].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 25, 1997.

I hereby designate the Honorable ROGER F. WICKER to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, O gracious God, that the great virtues that support our civilization and culture will grow in our awareness and strengthen our lives and our communities. We know that there must be those values and truths that make stronger the fabric of our society and give cohesion and purpose to daily living. With all the competing beliefs about and with all the striving for new and more relevant ideas, give to us, O God, the strong faith to see clearly Your blessings to this world and to each of us. May those blessings continue to give us meaning in our endeavors and show us more clearly the paths of justice and of peace. In Your name we pray. Amen.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. McDevitt, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 1902. An act to immunize donations made in the form of charitable gift annuities and charitable remainder trusts from the antitrust laws and State laws similar to the antitrust laws.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Arkansas [Mr. HUTCHINSON] come forward and lead the House in the Pledge of Allegiance.

Mr. HUTCHINSON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces that he will entertain fifteen 1-minutes on each side.

REDUCTION IN CAPITAL GAINS TAX

(Mr. JONES asked and was given permission to address the House for 1 minute.)

Mr. JONES. Mr. Speaker, the liberals often refer to a reduction in the capital gains tax as a "tax cut for the wealthy." This is simply not the case. I know of a large number of farmers, senior citizens, and middle-income families in my district who would greatly benefit from a reduction in the capital gains tax.

I think my constituents would be extremely disappointed to hear that the liberals in Washington have declared them wealthy. My constituents are good, hard-working Americans, who do the best they can to make ends meet, especially when they have to send so many of their dollars to Washington to pay for big government.

The taxpayer should not be penalized for selling a farm or a home or for being among the 43 percent of adult Americans who own stock. A reduction in the capital gains tax rate means real relief for real, hard-working Americans.

PUERTO RICO MEDICAID BUDGET AGREEMENT NOT HONORED IN RECONCILIATION

(Mr. ROMERO-BARCELÓ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROMERO-BARCELÓ. Mr. Speaker, for the last three decades, the U.S. citizens of Puerto Rico have been excluded from participating in the Federal Medicaid Program at the same level of benefits as their fellow citizens in the 50 States.

The Medicaid block grant for Puerto Rico is currently capped at only $133 million and, as a result, the Puerto Rico Department of Health has to provide in excess of $700 million annually in local funding to take care of this island's medically indigent population.

Throughout my tenure in Congress, I have actively fought for increased participation by Puerto Rico in Medicaid. I find it unconscionable that the Federal Government would uphold a policy where the health and lives of the people of Puerto Rico are considered to be of less value than the lives of other citizens. And we are talking about citizens, not immigrants or legal residents.

In this spring's balanced budget negotiations, the congressional leadership and the administration agreed to increase Puerto Rico's Medicaid block grant by $30 million in fiscal year 1998 and by an additional $10 million annually through the year 2002.

I am appalled by the fact that this agreement between the White House and the Republican leadership has not been honored in the budget act that we will consider today. I would hope that the commitment made by the congressional leadership with the White House is honored, as all commitments should be.

IMPUTED INCOME

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute.)

Mr. HUTCHINSON. Mr. Speaker, listening to the other side characterize our tax bill as "tax cuts for the wealthy" has led me to come up with a perfect letter for my constituents. It would go like this:

Dear Middle Class Taxpayer: For tax purposes only, you are hereby declared rich. I know this must come as quite a shock to you, but that is not even the good part.

Although you and your wife live quite modestly and think that when you add your $25,000 salary to her $20,000 salary you make $45,000. Well, think again. This includes all of your overtime. But whenever you earn $45,000 per year, the liberals in Congress have decided that you actually make over $75,000 a year. It is called imputed income.

I am not sure exactly how they do that. But the bottom line is, you are hereby declared rich. This means, among other things, that you are now evil and that you are no longer paying your fair share.

Oh, yes, the tax cut you thought you were going to get, well forget it. Being rich has never been so fun, has it?

A FULL COURT PRESS AGAINST DRUGS

(Mr. BLAGOJEVICH asked and was given permission to address the House for 1 minute.)

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Mr. BLAGOJEVICH. Mr. Speaker, let me begin by quoting a sports hero from my hometown of Chicago:

I've missed more than 9,000 shots in my career. I've lost almost 300 games. Twenty-six times I've been entrusted to take the game-winning shot and missed. I've failed over and over and over again in my life. And that is why I succeed.

Mr. Speaker, the other day in the Committee on Rules, I, like Michael Jordan, took a shot and I missed. I filed an amendment that would have given additional money to our military for our fight to interdict drugs before they cross our borders and reach our neighborhoods.

Mr. Speaker, we met the challenge of the cold war by providing the necessary resources to win that war. Now it is time we invested some of those same resources to fight and win the war on drugs, a war being waged in every neighborhood and every community in our country. Because, Mr. Speaker, in the final analysis, it is only with a full court press that we can ultimately turn failure into success.

TAX CUTS WILL KEEP THE ECONOMY GROWING

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, do you find it amusing that liberals in this House, people who have never created a job in their lives, spend all of their time attacking the very policies that help create jobs?

Do you find it downright hilarious that liberals spend their entire lives attacking corporate America, the very same corporate America that is responsible for creating 30 million jobs in the U.S. economy over the last 15 years?

Do you find it positively insane, yes, Mr. Speaker, insane that liberals dismiss out of hand the relevance of the very same factors in the economy that are the single most relevant factors that job creators take into account when thinking about starting up or expanding a business?

Just why is it, Mr. Speaker, that the liberals simply refuse to learn any lessons from fast-growing economies and refuse to avoid the mistakes of no-growth European economies?

Keep the American economic system growing, Mr. Speaker. Let us pass the tax cuts in the balanced budget agreement so that there are more jobs for everyone.

IRS EMPLOYEE CRIMES

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, there is a new management board to clean up the IRS. The GAO said the IRS cannot even handle their own money, and that IRS employees have illegally snooped into unsuspecting taxpayers' accounts.

Now, if that is not enough to seize your tooth fairy money, check this out. An IRS bankruptcy specialist, Reva Vanzijl, stole social security numbers, then ripped off $10,000 from the credit cards of unsuspecting taxpayers.

"But don't worry," the IRS said, "we got Reva and we convicted her and we threw the book of justice at her." Check this out: Reva got 6 months of home arrest and a $3,000 fine.

Beam me up, Mr. Speaker. I say the IRS does not need a management board. The IRS needs a parole board. As for this proverbial book of justice, I say the IRS should shove that book of justice up their audit. I yield back all their crimes.

MORE TAX RELIEF, LESS GOVERNMENT WASTE

(Mr. TIAHRT asked and was given permission to address the House for 1 minute.)

Mr. TIAHRT. Mr. Speaker, one way to think about our tax policy is to consider two opposite cases. Under a tax regime that took every penny of what you earned, that would certainly be considered tyranny. Under a tax regime that allowed you freedom to do whatever you wished to do with that money that you earned, that would be considered maximum freedom.

Well, today we can move our tax regime toward the direction of more freedom and away from the direction of more tyranny. "Tyranny" means absence of freedom.

It means that a truck driver who earns $100 after driving 100 miles finds that he is not free to do what he wishes with that money because the Government takes a quarter to a half of it. He is taxed on the coffee he drinks. He is taxed on the fuel that he burns in his truck. He pays taxes on the truck. He pays income taxes. No wonder he feels ripped off.

It is time to move to more freedom and less Government tyranny. It is time for more tax relief and less Government waste.

REPUBLICAN TAX PLAN

(Ms. VELÁZQUEZ asked and was given permission to address the House for 1 minute.)

Ms. VELÁZQUEZ. Mr. Speaker, today we will vote on the first of two Republican budget bills. The Republicans will say that they are giving tax relief to working families. Do not believe it for one minute. What the Republicans are doing is waging war on working families.

The Republican tax plan will give $27,000 in tax breaks to the wealthiest 1 percent. Is this fairness? I will say it again. They want to give $27,000 in tax breaks to the wealthiest 1 percent.

For families trying to move from welfare to work, they want to deny worker protections, they want to deny family and medical leave, and they refuse to guarantee protections for 10 million uninsured children.

Do not be fooled. The Republican budget is a big gift to wealthy campaign contributors, and the Republican budget is an attack on working families.

TAX RELIEF BILL

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, in the preamble to the Constitution, the people of the United States declared that one of the purposes of having a constitution was to "promote the general welfare, and to secure the blessings and liberty to ourselves and our posterity."

Mr. Speaker, one of the best ways to promote the general welfare and secure the blessings of liberty to ourselves and our children would be to pass the Republican tax relief plan. Letting people who earn between $20,000 and $75,000 a year keep more of what they earn means that their standard of living goes up. It means that these people can better provide for their families, better save for their children's education, and better save for their own retirement.

The Constitution speaks of providing the blessings of liberty to ourselves and our posterity, and reducing death taxes means the family farms can stay in the family, the family business can remain in the hands of those who helped build it.

I urge my colleagues to support the tax relief bill when it comes before the House.

MEDICARE CUTS FINANCE TAX RELIEF FOR THE WEALTHY

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Mr. Speaker, the Democrats would tax the very air we breathe, or so the Republicans would have us believe. But the Republicans would actually take oxygen from the lungs of senior citizens and disabled around this country to finance tax cuts for the wealthy. And I am not making this up.

The measure before us today cuts the payments for oxygen and oxygen equipment by 20 percent and freezes payments through 2002 to save $1.6 billion. Eighty percent of the cuts in the bill before us today come from Medicare, not to reform Medicare and stabilize its finances, but to finance tomorrow's bill, the bill that will extend tax cuts to the wealthy, tax cuts that will average $27,132 a year for families that earn

over $400,000. And for those families who earn $25,000 they will average zero, nothing.

Is this fair? I do not think so.

TAX RELIEF FOR WORKING AMERICANS

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, well, there they go again. It is tragic, in a sense, to come to the floor of this House and hear such extreme, shrill and, yes, I am saddened to say, false rhetoric from liberals who constantly apologize for expansion of government and higher taxes for the American people.

The sad fact is that the Treasury Department and other partisans, such as my good friend from Oregon [Mr. DEFAZIO], are using books that have been cooked so much they are charcoal broiled. How many families do my colleagues know who pay rent to themselves, owning their own homes?

That is what our friends say the American people do. That is why our friends would say that a middle-income family earning about $40,000 a year somehow makes in excess of $75,000 a year and somehow is wealthy. It does not add up. Indeed, when we come to saving Medicare, we worked out commonsense reforms with the very administration that I think my colleague from Oregon [Mr. DEFAZIO] would champion.

So let us return to a voice of reason, common sense, giving tax relief to working Americans. That is the key. That is what our plan does, 76 percent to families making between $20,000 and $75,000; and that is why the American people will prevail.

□ 1015

TRAGIC EXAMPLE OF WELFARE REFORM

(Mr. HINOJOSA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HINOJOSA. Mr. Speaker, I come before Members today to tell them about the drastic effects of the welfare reform law passed by the 104th Congress. Specifically, I want to share with Members an example of someone who has been tragically affected by the welfare reform law.

Mr. Rosendo Tijerina is a legal immigrant who has worked in Texas for 11 years. Last November he was involved in a serious auto accident. His legs and pelvis were crushed and his heart was injured as well. He is now totally disabled.

Yet under the welfare reform law, Mr. Tijerina is not eligible for supplemental security income. He has worked hard, paid his taxes, integrated himself and his family into his community and has been a contributor to our country's economy. He deserves better treatment than this.

Mr. Tijerina and the other 125,000 legal immigrants who will be denied benefits under the law need to have these benefits restored. In my own State of Texas more than 34,000 legal immigrants are expected to be denied benefits.

Mr. Speaker, I ask that these people be given some consideration.

INTRODUCTION OF TECHNOLOGY FOR TEACHERS ACT

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, in an effort to address the challenges of technology in our Nation's classrooms, I am joining with the gentleman from Minnesota [Mr. VENTO] in introducing the Technology for Teachers Act. This bill would establish two competitive grant programs under the auspices of the Department of Education. One program would promote the inclusion of education technology in the initial undergraduate preparation of new teachers. The other would promote education technology as part of the ongoing professional development of current teachers. The Office of Technology Assessment recently released a study that shows that most new teachers graduate from teacher preparation institutions with limited knowledge of the way technology can be used in their professional practice. The study also revealed that a majority of classroom teachers feel they need additional training in order to adequately use a personal computer. Yet a review of the data on teacher training and technology reveals that school districts across the country spend very little of their technology budgets on teacher training.

Mr. Speaker, advanced technology has improved America's economic competitiveness and improved the quality of life for millions of our citizens. By the year 2000, just 3 years away, 60 percent of American jobs will require technological skills. This bill is going to enhance and give teachers the training they need to meet the classroom challenge of the future.

THE MEAN-SPIRITED WELFARE BILL

(Mr. REYES asked and was given permission to address the House for 1 minute.)

Mr. REYES. Mr. Speaker, this morning I want to put a human face on one of the hundreds of thousands of elderly and disabled legal immigrants who are the targets of a mean-spirited welfare bill.

Piedad Gonzalez entered the United States as a lawful permanent resident in 1986, then a healthy woman with no history of any physical or mental illness. Like countless other immigrants, she came to this country willing to work hard and contribute.

She soon found employment and had worked for 4 years before she began experiencing severe back pain. She became too disabled to continue working, having contracted arthritis.

In 1994, Ms. Gonzalez applied for SSI benefits and in November 1996 received a favorable decision. However, 1 month later, this was overturned, denying her SSI benefits due to the restrictions of the welfare bill.

Ms. Gonzalez should not be punished for coming to this country legally and working hard and playing by the rules. Instead, this bill wants to punish her and leave her with no means of support.

The gentleman from California [Mr. BECERRA] had an amendment to the spending bill which would have provided men and women like Ms. Gonzalez the means to survive. It was not made a part of the manager's amendment. I urge my colleagues to vote against the rule.

TAX CUTS IN BUDGET AGREEMENT HONOR WORK

(Ms. PRYCE of Ohio asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PRYCE of Ohio. Mr. Speaker, it is painfully obvious by now how painful it is for the liberal Democrats to accept tax cuts of any kind. The truth is they simply cannot justify letting Americans keep more of their hard-earned money.

In their view, Mr. Speaker, the politicians are doing people a favor by letting them keep what is already theirs. Their idea of fairness is that the people who worked harder, who went to school a little longer, who got up a little earlier, who stayed at the office a little later, who took the risks, who worked harder to come up with better ideas, their idea of fairness means that those same people are somehow not justified in their desire to be rewarded for their efforts.

In the commonsense view of fairness, money does not come easily for those who earn it. The tax cuts in this balanced budget amendment honors work. It lets millions of middle-class taxpayers keep more of what they worked so hard to earn.

VOTE TO DEFEAT UNFAIR RECONCILIATION BILL

(Ms. ROYBAL-ALLARD asked and was given permission to address the

House for 1 minute and to revise and extend her remarks.)

Ms. ROYBAL-ALLARD. Mr. Speaker, those who negotiated the original bipartisan budget agreement recognize that restoring aid to legal immigrants residing in the United States prior to August 23, 1996, and later become disabled is good policy and a needed improvement to last year's welfare bill.

The reconciliation bill before us today violates the budget agreement reached earlier by the President and congressional leaders. As a result, innocent people who played by the rules will suffer.

An example is Mr. Loza, a 60-year-old legal immigrant residing in Los Angeles. Mr. Loza worked in the United States for 8 years before suffering a stroke which resulted in an unstable heart condition. In November 1996, his application for SSI disability benefits was denied because of last year's welfare bill. He is now trying to live on less than $200 per month of general assistance relief.

Mr. Loza is an example of one who has worked hard, played by the rules and paid his taxes but by virtue of this reconciliation bill, we now abandon due to his disability. We must vote to defeat this unfair bill.

MATHEMATICS OF TAX RELIEF

(Mr. STEARNS asked and was given permission to address the House for 1 minute.)

Mr. STEARNS. Mr. Speaker, I would like to point out something that probably has never once occurred to the other side. Consider this. According to the IRS, the top 50 percent of taxpayers pay 95.2 percent of the income tax.

Let me just repeat that. According to the IRS, the top 50 percent of taxpayers pay 95.2 percent of the income tax. If Members understand that, then they can immediately see that of course those earning above the median income benefit the most from tax relief. After all, they bear the brunt of the tax burden.

In other words, when the folks on that side talk about tax cuts going to the benefit of only the wealthy, what they are really stating is nothing more than the fact that people with higher incomes pay higher taxes, which is not exactly news.

If one person makes $30,000 a year and another person makes $50,000 a year and both get a tax cut of 10 percent, could someone on that side of the aisle please explain to me how that is unfair to the person earning $30,000 a year? Could someone on that side please explain to me how the person making $30,000 a year is now getting a bad deal?

TAX RELIEF FOR HARDWORKING AMERICANS

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTKNECHT. Mr. Speaker, we had our Committee on the Budget meeting that went late Friday afternoon, in fact it went well into the evening, and so I missed my flight and I flew home on Saturday. I did something on that flight back to Minnesota that I do not do very often. I looked out the window. I realized what a beautiful country this is, full of hardworking people, as the President says, who play by the rules, who pay their taxes, lots of good Americans.

When I got home, we drove back from the airport, there was a garage sale in my neighborhood. There was a family that was piling out of their kind of beat-up car. They had four kids. The youngest one was sort of permanently attached to mom's hip, and I think some of my colleagues know what I am talking about, one of those little chubbers. I thought about our budget agreement, about our tax bill and I said, "It's for families like that that we did this." Because they are going to get $2,000 more to spend themselves, to invest themselves, to do what they want to do. And they are going to get help in terms of educating those kids.

When we talk about this tax bill and about this budget plan, it is about preserving the American dream for those kids and it is about allowing those families to keep more, to spend more and save more of their own money.

VOTE FOR TAX RELIEF TODAY

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, if Republicans were giving away chocolate candy, Democrats would accuse them of promoting cavities in America's children. They are masters of misrepresentation. They are totally against this tax cut. They do not want the middle class to have tax relief. But they are too clever to say, "Hey, we hate giving tax relief," so what they do is say, "Oh, this tax relief is only for the wealthy." That is very strange since the nonpartisan Joint Committee on Taxation says that 76 percent of the tax relief goes to middle-class families earning between $20,000 and $75,000 a year. Indeed, 91 percent of the tax relief goes to families with a household income of $100,000 or less. This is solid middle-class stuff. This is not about tax relief for the wealthy. It is about couples like Debbie and Phil Spindle. Debbie makes $24,000 and Phil makes $40,000. They have a 14-year-old and an 11-year-old. They need the $500 per child tax credit. They need tax relief. They need a break. They do not need a wasteful government that year after year takes money out of their pocket and spends it on countless bureaucracies and bureaucrats. Let us vote for tax relief today.

WINNERS AND LOSERS IN REPUBLICAN TAX PLAN

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, yesterday evening I was joined on the floor of the House by colleagues from the east coast, the Midwest, the west coast, and the South, combining the full representation of all Americans. We collectively acknowledged that in the next 48 hours, this House will be taking one of the most important steps, constitutional responsibilities of the spending and generating revenue for this government.

Our question was raised and it has not been answered: Who benefits from the Republican tax plan? Who wins and loses from the Republican tax plan? The rich certainly win. The working and middle-class members of this society and this Nation certainly lose. The reason is because we can find 91 million families who benefit from the Democratic alternative tax plan who are working middle-class citizens making under $100,000 a year. In contrast we see the Republican plan where 91 million make over $100,000 a year to $250,000. The question is for the American public to answer. Who benefits in the Republican rich tax plan. Vote for the Democratic alternative plan that works for all working Americans.

SUPPORT ROHRABACHER AMENDMENT TO DEFENSE AUTHORIZATION BILL

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, in a few minutes my colleague for whom I have deep respect, the gentleman from California [Mr. DELLUMS], may call for a revote on an issue that was decided the night before last. If indeed this happens, I would hope that my colleagues stand firm to the position that we had the night before last, and that is, it deals with an issue as to whether or not if Russia transfers a weapon that it designed during the cold war, a missile designed specifically to kill American sailors and to sink American ships, whether or not we should continue to pump $200 million a year into a fund for a program that we are involved in with the Russians, by the way a program that has a billion-dollar backlog right now.

I would hope that my colleagues think very closely on this issue. The

gentleman from California [Mr. DELLUMS] is a very serious man and sincere, concerned about peace, I have no doubt about that, and concerned about his country.

□ 1030

I have a disagreement with him on this issue. I think our colleagues will say it is a good way to send a message to the Russians not to send high technology weapons designed during the cold war to countries that would kill Americans, and I would hope they revote the way they did the night before last.

MIGHTY JAZZ DEFEATED BY THE MIGHTIER BULLS

(Mr. COOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COOK. Mr. Speaker, I yield to the gentleman from Illinois [Mr. JACKSON].

Mr. JACKSON of Illinois. Mr. Speaker, we are not worthy, we are not worthy, we are truly not worthy.

I was approached during the NBA championship series by my colleague from Utah, Mr. COOK, and Mr. COOK made a friendly wager, that if the Chicago Bulls had won the championship, that he would indeed wear a Chicago Bulls hat for the remainder of a day.

"I have missed more than 9,000 shots in my career," a Bull once said; "I've almost lost 300 games, 26 times I have been trusted to take the game-winning shot and missed."

Character, Mr. Speaker, character speaks for both the Utah Jazz and the Chicago Bulls, of whom we are both extremely proud.

I want to express our condolences once again to Shannon Anderson and his family, and to all of the Utah Jazz that played with such character, with such determination, we look forward to beating the Utah Jazz for a sixth time.

Mr. COOK. Mr. Speaker, we certainly look forward to a repeat performance, and I think the result is going to be a little bit different.

I am here today to honor the promise. My team, the mighty Jazz, was defeated in the NBA finals by the mightier Bulls, and let me just make the statement as I promised the gentleman from Illinois. I did not say I would go that far.

I had a busy week, and I asked my chief of staff to help me with this piece, but it turns out she is not a sports fan. Now, as a Utah woman, she knows two names in basketball: Stocton and Malone; actually in Utah it is Stocton to Malone, and that is just one word.

Now I told her that there is a man out there named Michael Jordan. It is not Michael Jackson, Michael Jordan; and he is a very fine player, particularly when he has the flu. If it were not for this man, I told her, the gentleman from Illinois [Mr. JACKSON] would be standing here today in a Jazz cap. "One ball player can't be that important," she said. My staff is chipping in to send her to a Bulls game the next season. In the meantime perhaps I could use this cutout as a visual aid to explain the wonder of Michael.

To Mr. Jordan, the gentleman from Illinois [Mr. JACKSON] and to all the Bulls team, congratulations on an outstanding playoff series, and we will definitely see them next year.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. Wicker). The time of the gentlemen from Utah [Mr. COOK] and from Illinois, [Mr. JACKSON], has long since expired and in this instance the Chair has granted great leeway and reminds Members that it is a violation of the House rules to wear hats on the floor of the House.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998

The SPEAKER pro tempore. Pursuant to House Resolution 169 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1119.

□ 1034

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1119) to authorize appropriations for fiscal years 1998 and 1999 for military personnel strengths for fiscal years 1998 and 1999, and for other purposes, with Mr. YOUNG of Florida in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, June 24, 1997, amendment No. 8 printed in part 1 of House Report 105–137 by the gentleman from Indiana [Mr. BUYER] had been disposed of.

There being no further amendments in order, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. FRELINGHUYSEN. Mr. Chairman, I want to take this opportunity to commend Chairman SPENCE and the other members of the National Security Committee for their efforts in drafting a defense bill that funds our national security priorities with limited resources. It is a balancing act that has become even more difficult as a result of the present administration that asks our men and women in uniform to do more around the world while subsequently giving them less resources. In fact, today, our troops are stationed in nearly 100 nations and the world, more than ever before. Yet, we are spending three time less on defense as a percentage of our national economy than when John F. Kennedy was President in 1963.

The defense bill Chairman SPENCE has crafted uses the resources available to focus on improving the quality of life for our troops and their families. The bill improves force readiness and modernizes aging equipment. Furthermore, Chairman WELDON and the members of the Research and Development Subcommittee have provided resources to continue the invaluable research and development efforts for the weapons systems that give our troops an overwhelming edge on the battlefield. We should never put our service men and women in harm's way with anything less than overpowering force and the most advanced technology available.

I would be remiss, however, if I did not add that I remain concerned about the effect declining defense budgets are having on our ability to recruit and retain new engineers and scientists who design, maintain, and upgrade our weapon's systems. Picatinny Arsenal, located in my congressional district, is home to many of our Nation's best and brightest weapons engineers. The men and women of Picatinny Arsenal design warheads for the Patriot missile, the 155mm howitzer for the Army's revolutionary Crusader artillery system and improvements to the gun turret of the Comanche helicopter, as well as developing the weapons of the future for our troops on the frontlines. If the knowledge that exists at Pacatinny and similar facilities within the Department of Defense is not passed on to new engineers and scientists, it will be lost forever. This knowledge cannot be replicated or replaced. We can only retain it and maintain it by continuing to recruit bright young men and women and by giving them the resources to continue their critical work.

Again, I want to commend Chairman SPENCE and the other members of the House National Security Committee for their work on this bill.

Mr. SAXTON. Mr. Chairman, I have a noncontroversial amendment to title 29 of the bill dealing with wildlife conservation on military lands or, as it is better known, the Sikes Act.

During the past 3 years, my Subcommittee on Fisheries Conservation, Wildlife and Oceans conducted two hearings on the Sikes Act and the House, on two separate occasions during the 104th Congress, approved legislation to extend this landmark statute.

Regrettably, this legislation did not become law and the Department of Defense [DOD], the Department of the Interior [DOI], and the International Association of Fish and Wildlife Agencies have been engaged in ongoing discussions on the details of a reauthorization bill.

I am happy to report that those negotiations have now been successful and that the language contained in my amendment has been endorsed by DOD, DOI, and the States.

The Sikes Act is the law under which land under the jurisdiction of the Department of Defense is managed for fish and wildlife-related conservation and recreational purposes. The Department of Defense controls nearly 25 million acres of valuable fish and wildlife habitat

at approximately 900 military installations nationwide. These lands, equal in size to the State of Kentucky, contain a wealth of plant and animal life, and provide vital habitat for migrating waterfowl and nearly 100 federally listed threatened or endangered species.

Enacted by Congress in 1960, the Sikes Act provides a mechanism for cooperative wildlife management on these military installations. It is time to reauthorize this Act.

Under the terms of my amendment, which I am offering on behalf of Chairman DON YOUNG, Chairman JOEL HEFLEY, and me, the Sikes Act will be reauthorized for 5 years; integrated natural resource management plans will be required on all military installations with significant fish, wildlife, or natural resources; and certain elements are required for those plans—including fish and wildlife management, wetland protection, and fish and wildlife-oriented recreation. The Department of the Interior and the States will have a meaningful role in the development of those plans and wildlife-dependent recreation, such as fishing and hunting, will be facilitated on all military lands, where appropriate. In addition, the Secretary of Defense shall submit an annual report to the Congress describing the number of integrated natural resource management plans in effect, the amount of money expended on conservation activities, and an assessment on whether these plans comply with the act.

Finally, this amendment will allow the Department of Defense to transfer any wildlife conservation fees collected at a military installation that has been closed to a DOD facility that will remain open in the future.

Mr. Chairman, I urge the adoption of this noncontroversial amendment which will not only reauthorize the Sikes Act but will improve its effectiveness.

Mr. ORTIZ. Mr. Chairman, I rise today to register my opposition to the provisions of the defense bill inserted by my friend from Ohio which would put 10,000 United States troops on the United States-Mexico border.

As a veteran and a former law enforcement officer, I understand the unique perspectives of those who strive to keep the peace on the border, and the views of those in this Congress who believe we should put resources we already have in a place they are needed.

However, this is a very bad idea. For 50 years, the United States spent our money and our energy on fighting the war against communism and, in 1989, we saw the Berlin Wall finally come down. It would be a mistake of enormous proportions if we erected our own wall along our southern border in the form of our military. At a time when Mexico is our neighbor, friend, and economic partner, it would be folly to station troops who are trained to kill on the international border.

There is a huge difference between law enforcement officers trained to police the civilian population and the military troops who are trained to kill the enemy.

We have a problem with illegal immigrants and drugs coming across the border, but the answer to that problem is to increase the Border Patrol staff along the border, not reinforce it with troops trained to shoot to kill. Already there have been two incidents along the border in which the military engaged. As a result, one young U.S. citizen has died and the Texas Rangers seem to be ready to proceed with a murder indictment against the marine who fired the shot that killed him.

The reason I support trade treaties like NAFTA and GATT is that they address the economic foundations of this region by expanding economic and job opportunities. We are better served as a nation if we address the economic motivation behind the movement of illegal immigrants and drugs as opposed to positioning U.S. troops to be our cops.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WICKER) having assumed the chair, Mr. YOUNG of Florida, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1119) to authorize appropriations for fiscal years 1998 and 1999 for military activities for the Department of Defense, to prescribe military personnel strengths for fiscal years 1998 and 1999, and for other purposes, pursuant to House Resolution 169, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole?

Mr. DELLUMS. Mr. Speaker, I demand a separate vote on amendment No. 35 offered by my distinguished colleague from California, Mr. ROHRABACHER, relating to the Nunn-Lugar cooperative threat reduction funds.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment?

If not, the Clerk will redesignate the amendment on which a separate vote has been demanded.

The text of the amendment is as follows:

Amendment:

At the end of title XI (page 371, after line 18), insert the following new section:

SEC. 1112. PROHIBITION ON USE OF FUNDS FOR CERTAIN PURPOSES IN CASE OF TRANSFER OF MISSILE SYSTEM BY RUSSIA.

(a) IN GENERAL.—No fiscal year 1998 Cooperative Threat Reduction funds may, notwithstanding any other provision of law, be obligated or expended to carry out a Cooperative Threat Reduction program in Russia after the date on which it is made known to the Secretary of Defense that Russia has transferred to the People's Republic of China an SS-N-22 missile system.

(b) APPLICABILITY.—This section shall apply with respect to any transfer by Russia of an SS-N-22 missile system to the People's Republic of China that occurs on or after the date of the enactment of this Act.

The SPEAKER pro tempore. The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DELLUMS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 204, nays 219, not voting 11, as follows:

[Roll No. 235]

YEAS—204

Aderholt	Fox	Nussle
Archer	Franks (NJ)	Packard
Armey	Gallegly	Pappas
Bachus	Ganske	Parker
Baker	Gekas	Paul
Ballenger	Gibbons	Paxon
Barr	Gillmor	Peterson (PA)
Barrett (NE)	Gilman	Petri
Bartlett	Goode	Pickering
Barton	Goodlatte	Pitts
Bass	Goodling	Pombo
Bilbray	Goss	Portman
Bilirakis	Granger	Poshard
Bliley	Greenwood	Pryce (OH)
Blunt	Gutknecht	Quinn
Boehner	Hall (TX)	Radanovich
Bonilla	Hansen	Ramstad
Bono	Hayworth	Redmond
Brady	Hefley	Regula
Bryant	Herger	Riggs
Bunning	Hill	Riley
Burr	Hilleary	Rogan
Burton	Hobson	Rogers
Buyer	Hoekstra	Rohrabacher
Callahan	Hostettler	Ros-Lehtinen
Calvert	Hulshof	Roukema
Camp	Hunter	Royce
Campbell	Hutchinson	Ryun
Canady	Inglis	Salmon
Cannon	Istook	Sanford
Castle	Jenkins	Saxton
Chabot	Johnson, Sam	Scarborough
Chambliss	Jones	Schaefer, Dan
Chenoweth	Kaptur	Schaffer, Bob
Christensen	Kasich	Sensenbrenner
Coble	Kelly	Sessions
Coburn	Kim	Shadegg
Collins	Kingston	Shaw
Combest	Klug	Shimkus
Condit	Knollenberg	Shuster
Cook	LaHood	Smith (OR)
Cooksey	Largent	Smith (TX)
Costello	Latham	Smith, Linda
Cramer	LaTourette	Snowbarger
Crapo	Lazio	Solomon
Cubin	Leach	Souder
Cunningham	Lewis (CA)	Spence
Danner	Lewis (KY)	Stearns
Davis (VA)	Lipinski	Stump
Deal	Livingston	Sununu
DeLay	LoBiondo	Talent
Diaz-Balart	Lucas	Tauzin
Dickey	Manzullo	Taylor (NC)
Doolittle	McCollum	Thomas
Dreier	McCrery	Thune
Duncan	McInnis	Tiahrt
Dunn	McIntyre	Traficant
Ehlers	McKeon	Upton
Ehrlich	Metcalf	Walsh
Emerson	Mica	Wamp
English	Miller (FL)	Watkins
Ensign	Molinari	Watts (OK)
Everett	Moran (KS)	Weldon (FL)
Ewing	Myrick	Weller
Fawell	Nethercutt	Wicker
Foley	Ney	Wolf
Forbes	Northup	Young (AK)
Fowler	Norwood	Young (FL)

NAYS—219

Ackerman	Bateman	Blagojevich
Allen	Becerra	Blumenauer
Andrews	Bentsen	Boehlert
Baesler	Bereuter	Bonior
Baldacci	Berman	Borski
Barcia	Berry	Boswell
Barrett (WI)	Bishop	Boucher

Boyd
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Conyers
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gilchrest
Gonzalez
Gordon
Graham
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Houghton
Hoyer
Hyde
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Kolbe
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Linder
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDade
McDermott
McGovern
McHale
McIntosh
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pease
Pelosi
Peterson (MN)
Pickett
Pomeroy
Porter
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Shays
Sherman
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thornberry
Thurman
Tierney
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weldon (PA)
Wexler
Weygand
White
Whitfield
Wise
Woolsey
Wynn

NOT VOTING—11

Abercrombie
Brown (CA)
Cox
Crane
Engel
McHugh
Nadler
Neumann
Schiff
Smith (NJ)
Yates

□ 1057

Messrs. SCOTT, TOWNS, HASTERT, WYNN, and SMITH of Michigan changed their vote from "yea" to "nay."

Mr. COSTELLO and Mr. KINGSTON changed their vote from "nay" to "yea."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. ENGEL. Mr. Speaker, I was necessarily absent during rollcall vote 235. If present, I would have voted "no" on rollcall 235.

PERSONAL EXPLANATION

Mr. ABERCROMBIE. Mr. Speaker, on rollcall No. 235, the Rohrabacher amendment, I was unavoidably detained at the Arlington National Cemetery. Had I been present, I would have voted "no."

□ 1100

The SPEAKER pro tempore (Mr. WICKER). The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DELLUMS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 304, noes 120, not voting 10, as follows:

[Roll No. 236]

AYES—304

Abercrombie
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cramer
Crapo
Cubin
Cunningham
Davis (FL)
Davis (VA)
Deal
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
Ensign
Etheridge
Everett
Ewing
Fawell
Flake
Foley
Forbes
Ford
Fowler
Fox
Frelinghuysen
Frost
Gallegly
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kim
King (NY)
Kingston
Knollenberg
Kolbe
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
Lucas
Maloney (CT)
Maloney (NY)
Manton
Manzullo
McCollum
McCrery
McDade
McHale
McInnis
McIntosh
McIntyre
McKeon
Meehan
Meek
Metcalf
Mica
Millender-McDonald
Miller (FL)
Mink
Molinari
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Pease
Peterson (MN)
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Redmond
Regula
Reyes
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Ryun
Salmon
Sanchez
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sessions
Shadegg
Shaw
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wise
Wolf
Young (AK)
Young (FL)

NOES—120

Ackerman
Baldacci
Barrett (WI)
Becerra
Berman
Blumenauer
Bonior
Brown (CA)
Brown (OH)
Campbell
Cardin
Carson
Clay
Clayton
Conyers
Coyne
Cummings
Danner
Davis (IL)
DeFazio
DeGette
Delahunt
Dellums
Deutsch
Dingell
Doggett
Doyle
Ehlers
Engel
English
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Foglietta
Frank (MA)
Franks (NJ)
Furse
Ganske
Gephardt
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Hooley
Jackson (IL)
Jackson-Lee (TX)
Kanjorski
Kennedy (MA)
Kilpatrick
Kind (WI)
Kleczka
Klink
Klug
Kucinich
LaFalce
Lantos
Levin
Lewis (GA)
LoBiondo
Lofgren
Luther
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McKinney
McNulty
Menendez
Miller (CA)
Minge
Moakley
Moran (VA)
Morella
Neal
Oberstar
Obey
Olver
Owens
Paul
Payne
Pelosi
Petri
Rahall
Ramstad
Rangel
Rivers
Rodriguez
Roemer
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sawyer
Schumer
Sensenbrenner
Serrano
Shays
Skaggs
Stabenow
Stark
Stokes
Strickland
Stupak
Towns
Velázquez
Vento

Waters	Waxman	Woolsey
Watt (NC)	Wexler	Wynn

NOT VOTING—10

Cox	Nadler	Smith (NJ)
Crane	Neumann	Yates
Lowey	Radanovich	
McHugh	Schiff	

□ 1116

The Clerk announced the following pair: On this vote:

Radanovich of California for, with Mr. Yates of Illinois, against.

Ms. STABENOW and Mr. MARTINEZ changed their vote from "aye" to "no."

Mr. FORD changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to authorize appropriations for fiscal year 1998 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.".

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. RADANOVICH. Mr. Speaker, with regard to the vote on final passage for H.R. 1119, the Defense Authorization Act, I was unavoidably detained. I support of H.R. 1119. This bill safeguards that our military will continue to defend the Nation's vital interests. H.R. 1119 ensures that the American military will be ready for the 21st century battlefield. In particular, it adds $2.6 billion to the President's deficient budget request, making for a total of approximately $268.2 billion. The bill is robust in terms of offering a balanced research and development program that will include advanced technologies and improved capabilities. Mr. Speaker, I support my colleagues who voted in favor of H.R. 1119.

GENERAL LEAVE

Mr. SPENCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill just passed.

The SPEAKER pro tempore (Mr. WICKER). Is there objection to the request of the gentleman from South Carolina?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1119, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998

Mr. SPENCE. Mr. Speaker, I ask unanimous that in the engrossment of the bill, H.R. 1119, the Clerk be authorized to correct section numbers, punctuation, cross references, and the table of contents and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, H.R. 1119, and to make the following corrections: On page 492, line 19, of the printed bill, strike "2,000,000" and insert "2,000 millions".

In the section added by the amendment designated as amendment No. 25 in part 2 of House Report 105–137, strike "63695N" and insert "63795N".

The SPEAKER pro tempore. The Clerk will report the corrections.

The Clerk read as follows:

(A) On page 492, line 19, of the printed bill, strike "2,000,000" and insert "2,000 millions".

(B) In the section added by the amendment as amendment #25 in part 2 of House Report 105–137, strike "63695N" and insert "63795N".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

REGARDING COST OF GOVERNMENT DAY

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 102.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SESSIONS) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 102, on which the yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 386, nays 20, answered "present" 13, not voting 15, as follows:

[Roll No. 237]

YEAS—386

Abercrombie	Boehlert	Clement
Ackerman	Boehner	Clyburn
Aderholt	Bonilla	Coble
Allen	Bono	Coburn
Andrews	Borski	Collins
Archer	Boswell	Combest
Armey	Boucher	Condit
Bachus	Boyd	Cook
Baesler	Brady	Cooksey
Baker	Brown (CA)	Costello
Baldacci	Brown (OH)	Cramer
Ballenger	Bryant	Crane
Barcia	Bunning	Crapo
Barr	Burr	Cubin
Barrett (NE)	Burton	Cummings
Barrett (WI)	Buyer	Cunningham
Bartlett	Callahan	Danner
Bass	Calvert	Davis (FL)
Bateman	Camp	Davis (IL)
Bentsen	Campbell	Davis (VA)
Bereuter	Canady	Deal
Berman	Cannon	DeFazio
Berry	Capps	DeGette
Bilbray	Cardin	DeLauro
Bilirakis	Castle	DeLay
Bishop	Chabot	Deutsch
Blagojevich	Chambliss	Diaz-Balart
Bliley	Chenoweth	Dickey
Blumenauer	Christensen	Dicks
Blunt	Clay	Dingell
Dixon	Kennedy (RI)	Porter
Doggett	Kennelly	Portman
Dooley	Kildee	Poshard
Doolittle	Kilpatrick	Price (NC)
Doyle	Kim	Pryce (OH)
Dreier	Kind (WI)	Quinn
Duncan	King (NY)	Radanovich
Edwards	Kingston	Rahall
Ehlers	Kleczka	Ramstad
Ehrlich	Klink	Rangel
Emerson	Klug	Redmond
Engel	Knollenberg	Regula
English	Kolbe	Reyes
Ensign	Kucinich	Riggs
Eshoo	LaFalce	Riley
Etheridge	LaHood	Rivers
Evans	Lampson	Rodriguez
Everett	Lantos	Roemer
Ewing	Largent	Rogan
Farr	Latham	Rogers
Fattah	LaTourette	Rohrabacher
Fawell	Lazio	Ros-Lehtinen
Filner	Leach	Rothman
Foglietta	Levin	Roukema
Foley	Lewis (CA)	Royce
Forbes	Lewis (KY)	Rush
Ford	Linder	Ryun
Fowler	Lipinski	Sabo
Fox	Livingston	Salmon
Frank (MA)	LoBiondo	Sanchez
Franks (NJ)	Lucas	Sanders
Frelinghuysen	Luther	Sandlin
Frost	Maloney (CT)	Sanford
Gallegly	Maloney (NY)	Sawyer
Ganske	Manton	Saxton
Gejdenson	Manzullo	Scarborough
Gekas	Markey	Schaefer, Dan
Gephardt	Martinez	Schaffer, Bob
Gibbons	Mascara	Schumer
Gilchrest	Matsui	Sensenbrenner
Gillmor	McCarthy (MO)	Sessions
Gilman	McCarthy (NY)	Shadegg
Gonzalez	McCollum	Shaw
Goode	McCrery	Shays
Goodlatte	McDade	Sherman
Goodling	McGovern	Shimkus
Gordon	McHale	Shuster
Goss	McInnis	Sisisky
Graham	McIntosh	Skaggs
Granger	McIntyre	Skeen
Green	McKeon	Skelton
Greenwood	McKinney	Slaughter
Gutierrez	McNulty	Smith (MI)
Gutknecht	Meehan	Smith (OR)
Hall (OH)	Meek	Smith (TX)
Hall (TX)	Menendez	Smith, Adam
Hamilton	Metcalf	Smith, Linda
Hansen	Mica	Snowbarger
Harman	Millender-McDonald	Snyder
Hastert	Miller (FL)	Solomon
Hastings (WA)	Minge	Souder
Hayworth	Mink	Spence
Hefley	Moakley	Spratt
Hefner	Molinari	Stabenow
Herger	Moran (KS)	Stearns
Hill	Moran (VA)	Stenholm
Hilleary	Morella	Strickland
Hilliard	Myrick	Stump
Hinchey	Neal	Stupak
Hinojosa	Nethercutt	Sununu
Hobson	Ney	Talent
Hoekstra	Northup	Tanner
Holden	Norwood	Tauscher
Hooley	Nussle	Tauzin
Horn	Oberstar	Taylor (MS)
Hostettler	Olver	Taylor (NC)
Houghton	Ortiz	Thomas
Hoyer	Oxley	Thompson
Hulshof	Packard	Thornberry
Hunter	Pallone	Thune
Hutchinson	Pappas	Thurman
Hyde	Parker	Tiahrt
Inglis	Pascrell	Traficant
Istook	Pastor	Turner
Jackson-Lee (TX)	Paul	Upton
Jefferson	Paxon	Vento
Jenkins	Pease	Visclosky
John	Peterson (MN)	Walsh
Johnson (CT)	Peterson (PA)	Wamp
Johnson (WI)	Petri	Watkins
Johnson, Sam	Pickering	Watt (NC)
Jones	Pickett	Watts (OK)
Kasich	Pitts	Weldon (FL)
Kelly	Pombo	Weldon (PA)
Kennedy (MA)	Pomeroy	Weller
		Wexler

Weygand	Wise	Young (AK)
White	Wolf	Young (FL)
Whitfield	Woolsey	
Wicker	Wynn	

NAYS—20

Bonior	McDermott	Serrano
Clayton	Miller (CA)	Stark
Conyers	Mollohan	Tierney
Coyne	Murtha	Towns
Dellums	Payne	Velázquez
Jackson (IL)	Roybal-Allard	Waters
Kanjorski	Scott	

ANSWERED "PRESENT"—13

Becerra	Hastings (FL)	Owens
Brown (FL)	Johnson, E. B.	Pelosi
Carson	Kaptur	Torres
Flake	Lewis (GA)	
Furse	Lofgren	

NOT VOTING—15

Barton	Lowey	Schiff
Cox	McHugh	Smith (NJ)
Delahunt	Nadler	Stokes
Dunn	Neumann	Waxman
Fazio	Obey	Yates

□ 1137

Mr. JACKSON of Illinois changed his vote from "yea" to " nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. NADLER. Mr. Speaker, earlier today I was unavoidably out of the Chamber when a couple of rollcall votes were taken. Had I been present, I would have voted "no" on rollcall 235, "no" on rollcall 236 and "no" on rollcall 237.

PROVIDING FOR CONSIDERATION OF H.R. 2015, BALANCED BUDGET ACT OF 1997, AND H.R. 2014, TAXPAYER RELIEF ACT OF 1997

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 174 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 174

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 2015) to provide for reconciliation pursuant to subsections (b)(1) and (c) of section 105 of the concurrent resolution on the budget for fiscal year 1998. The bill shall be considered as read for amendment. The amendment printed in the Congressional Record and numbered 1 pursuant to clause 6 of rule XXIII shall be considered as adopted. All points of order against provisions in the bill, as amended, are waived. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) three hours of debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget; and (2) one motion to recommit with or without instructions.

SEC. 2. At any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2014) to provide for reconciliation pursuant to subsections (b)(2) and (d) of section 105 of the concurrent resolution on the budget for fiscal year 1998. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill and against provisions in the bill, as amended by this resolution, are waived. General debate shall be confined to the bill and shall not exceed three hours equally divided and controlled by the chairman and ranking minority member of the Committee on the Ways and Means. After general debate the bill shall be considered for amendment under the five-minute rule. The amendment printed in the Congressional Record and numbered 2 pursuant to clause 6 of rule XXIII shall be considered as adopted in the House and in the Committee of the Whole. The bill, as amended, shall be considered as the original bill for the purpose of further amendment and shall be considered as read. No other amendment shall be in order except the further amendment printed in the Congressional Record and numbered 1 pursuant to clause 6 of rule XXIII, which may be offered only by Representative Rangel of New York or his designee, shall be considered as read, shall be debatable for one hour equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against that amendment are waived. At the conclusion of consideration of the bill, as amended, for amendment the Committee shall rise and report the bill, as amended, to the House with such further amendment as may have been adopted. The previous question shall be considered as ordered on the bill, as amended, and any further amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. COMBEST). The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for the purposes of debate only, I yield 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I may consume. During consideration of the resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, House Resolution 174 is the customary structured rule for the consideration of a budget reconciliation bill. In this case, the rule provides for the consideration of reconciliation legislation in two parts, which reflects the bipartisan budget agreement reached between Congress and the White House on May 2, 1997.

Mr. Speaker, this rule first waives all points of order against the consideration of the legislation, the Balanced Budget Act. The rule provides 3 hours of debate on the entitlement reform bill, equally divided and controlled by the chairman and ranking member of the Committee on the Budget.

The rule also considers the amendment printed in the CONGRESSIONAL RECORD and numbered 1 as adopted upon the adoption of this rule. This amendment by the gentleman from Ohio [Mr. KASICH] reflects hours of negotiations between Democrats and Republicans and between the White House and this Congress, both bodies of this Congress.

This amendment attempts to resolve many of the outstanding issues related to our bipartisan efforts to reform the Nation's out-of-control entitlement spending. And we all know that it is totally out of control.

The rule further waives all points of order against the provisions of the bill as amended by the rule. After the conclusion of the 3 hours of debate, the rule provides for one motion to recommit, with or without instructions.

Yesterday, we informed the minority members of the Committee on Rules that we were prepared to grant a rule allowing one Democrat substitute to be offered by the minority leader or his designee. However, we were informed yesterday that such a substitute would not be offered, even though we were willing to make that amendment in order.

□ 1145

In addition, section 2 of the rule provides for consideration of the second part of this reconciliation product, the Taxpayer Relief Act. The rule waives all points of order against consideration of this bill and against its provisions as amended by the rule. The rule further provides another 3 hours of general debate on this tax cutting measure, equally divided and controlled by the chairman and the ranking member of the Committee on Ways and Means. The rule also considers the amendment printed in the CONGRESSIONAL RECORD and numbered 2 as adopted in the House and in the Committee of the Whole. This amendment, drafted by the gentleman from Texas [Mr. ARCHER], reflects further negotiations between the various interested parties involved in the implementation of the tax portion of this bipartisan agreement with the White House.

Furthermore, the rule provides for the consideration of a substitute amendment printed in the CONGRESSIONAL RECORD and numbered 1 only if offered by the gentleman from New York [Mr. RANGEL] or his designee.

Mr. Speaker, this amendment is debatable for 1 hour equally divided and controlled by the proponent and an opponent, and is not subject to amendment or to a demand for a division of the question in the House or in the Committee of the Whole and all points of order are waived against the amendment. This amendment, offered by the gentleman from New York [Mr. RANGEL], the ranking Democrat on the Committee on Ways and Means, represents the minority substitute to the tax bill.

Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, after hearing testimony up in the Committee on Rules yesterday for more than 5 hours and from more than 40 witnesses, the Committee on Rules has produced a rule that is very similar to that used on reconciliation bills going all the way back to the 96th Congress, over two decades. Furthermore, after consultation with the minority and our committee, we actually extended the total debate time on the two bills from 5 hours to 7 hours. We have made every effort to make this a bipartisan rule to consider this bipartisan balanced budget agreement. I would urge all my colleagues to support it.

Mr. Speaker, as to the contents of these bills, I can sum up their significance in two short statements:

First, the first balanced budget in 30 years. Second, the first major tax cut in 16 years.

While these two bills before us contain a variety of provisions, I want to focus on one in particular. In introducing his tax cut plan to the American people back in 1962, then President John F. Kennedy stated:

> Prosperity is the real way to balance the budget. By lowering taxes, by increasing jobs and incomes, we can expand tax revenues and finally bring our budget into balance.

President Kennedy was right then and the bill before us today represents those truths.

Mr. Speaker, over the past two decades, this Congress has held this same debate over and over and over again. How can we reduce the tax burden, reduce the deficit and balance the budget at the same time? Today's budget agreement is quite a different approach than has been tried in previous budget agreements. For instance, in 1990, Congress and the President, and at that time the President was George Bush, negotiated a bipartisan budget agreement in an effort to reduce the deficit only to result in a $100 billion tax increase and an unbalanced budget. That is what happened under a Republican President and a Democrat Congress back in 1990.

Three years later, in 1993, the President, that is Bill Clinton, and congressional Democrats, who were in control of this place at that time, gathered together and negotiated another budget deal to reduce the deficit. This time the result was a $200 billion tax increase, the largest tax increase in the history of this Nation, and still no balanced budget.

A year later, in 1994, the American people called on their government to try a new approach, to take a new look at an old approach used in previous decades under Presidents such as John F. Kennedy and Ronald Reagan. At the very beginning of the 104th Congress, the new Republican majority, in full agreement with President John F. Kennedy's assertion back in 1962, sought to provide the American family with meaningful tax cuts and a balanced budget. We are all very familiar with the extensive debates over tax relief in the past Congress. Despite all the talk, the American family still remains overtaxed and overburdened by its Government. That is this Government that we stand in here today.

Some of my colleagues may chuckle a little over this statement, exclaiming there goes JERRY SOLOMON again with his Reaganomics outlook on the world, but it is a fact that in the past 16 years, this Congress has raised our Nation's taxes over 5 times and by hundreds of billions of dollars. We have not cut taxes, we have raised taxes right here in this body. As a result, it is no exaggeration for me to say that the American family pays a much higher percentage of its hard-earned income in taxes right now today than at any time in recent history.

Today we have before us a budget bill that represents the first major tax cut in 16 years. Mr. Speaker, it is major. While we have had much larger tax relief packages before this House over the past few years, the probability that this tax relief bill will receive bipartisan support and be signed into law is much, much higher than those previously before us and that should be recognized here today. This is going to become law.

Furthermore, contrary to what we are going to hear from the other side today, from some Members of the other side because many Members on the Democrat side are going to support this measure, the majority of this tax relief, 72 percent of it, will go to middle-income wage-earning families making between $20,000 and $70,000. This will better enable all of America's families to care for their children and their communities and represents a good first step in rolling back the high level of the Government's financial interference in the lives of these hard-working families.

Finally, Mr. Speaker, it should be noted that these two bills before us today actually carry changes in the underlying laws that deliver the tax cuts and the spending cuts. This is very, very important, especially to some of the younger Members because in years past we have adopted budgets that put us on a glide path to a balanced budget, but when it came to making the hard votes, we did not do it, we abandoned it, and that is why the deficits continued. It is easy to vote for legislation that actually calls for these cuts to be done as we did in the budget agreement, and everybody sent out their press releases on it. It is quite something different to actually vote for these cuts. I urge all of the Members here today to support these bills and then follow through on the 13 appropriation bills that will follow, because that is where it is going to count.

Members have my pledge that I am going to vote for every one of these cuts represented in this agreement with the Republicans and Democrats in this House, with the Senate, and with the President. These are the kind of bills that actually make a difference. I applaud all of my colleagues on both sides of the aisle.

Mr. Speaker, I include the following extraneous material for the RECORD:

HOUSE RECONCILIATION RULES 1980–1996

Congress and year	Bill No.	Rule No.	Terms of rule
96th (1980)	H.R. 7765	H. Res. 776	10-hours general debate (1-hr. ea. To 8 comms., 2-hrs. Ways and Means); 4 amendments allowed; (1) Budget Comm.; (2) Strike subtitle; (3) Rep. Vanik (D); (4) Rep. Bauman (R); one motion to recommit.
97th (1981)	H.R. 3982	H. Res. 169	8-hrs. General debate, comms. of juris.; amendment in the nature of substitute by chairman of Budget Comm.; 6 amendments by Rep. Latta; 1-hr.; one motion to recommit.
98th (1983)	H.R. 4169	H. Res. 344	1-hr. gen. debate, Budget Comm.; amendment in nature of substitute made in 1 amendment by chmn. Budget Comm.; one motion to recommit, with or without instructions.
98th (1984)	H.R. 5394	H. Res. 483	6-hrs. gen. debate, Budget Comm.; (1) amend. by W&M Comm., 1-hr; (2) amend. by Rep. Pepper, 30-mins.; one motion to recommit.
99th (1985)	H.R. 3500	H. Res. 296	4-hrs. gen. debate, Budget Comm.; self-execute amend.; (1) Rep. Fazio, 30-mins.; Rep. Latta, 1-hr.; (3) Rep. Florio, 30-mins; one motion to recommit.
99th (1986)	H.R. 5300	H. Res. 558	3-hrs. gen. debate, Budget Comm.; self-execute amend.; (1) Rep. Rodino, 30-mins.; (2) Rep. Rodino, 30-mins.; (3) Rep. Wylie, 3-mins.; one motion to recommit without instructions.
100th (1987)	H.R. 3545	H. Res. 296/298	3-hrs. gen. debate, Budget Comm.; self-execute amend.; (1) Rep Michel, 1-hr.; one motion to recommit without instructions.
101st (1989)	H.R. 3299	H. Res. 245/249	6-hrs. gen. debate, Budget Comm.; self-execute amend.; 10 amendments (D–7; R–3), debate from 30-mins. to 2-hrs. ea. (varies by amendment); one motion to recommit.
101st (1990)	H.R. 5835	H. Res. 509	3-hrs. gen. debate, Budget Comm.; self-execute amends.; (1) Rep. Rostenkowski, 1-hr.; one motion to recommit without instructions.
103d (1993)	H.R. 2264	H. Res. 186	2-hrs. gen. debate; self-execute amend. (54 page); (1) Rep. Kasich substitute, (290 pages), 1-hr.; one motion to recommit without instructions.
104th (1995)	H.R. 2491	H. Res. 245	3-hrs. gen. debate (via. u.c. request); an additional 3-hrs. gen. debate, Budget Committee; self execute amendment in the nature of a substitute; 1 substitute amendment if offered by the Minority Leader or his designee, debatable for 1 hour; one motion to recommit which may contain instructions if offered by the Minority Leader or his designee.

HOUSE RECONCILIATION RULES 1980–1996—Continued

Congress and year	Bill No.	Rule No.	Terms of rule
104th (1996)	H.R. 3734	H. Res. 482	2-hrs. gen. debate, Budget Comm.; self execute amendment in nature of substitute; 1 amendment if offered by the chairman of the Budget Committee or his designee, debatable for 20 minutes.; one motion to recommit, with or without instructions.

REPORT LAYOVER PERIOD FOR RECONCILIATION BILLS, 1980–1996

Congress and year	Bill no.	Report filed	Bill considered	Layover period (days)
96th (1980)	H.R. 7765	7/21/80	9/4/80	45
97th (1981)	H.R. 3982	6/19/81	6/25/81	6
98th (1983)	H.R. 4169	10/20/83	10/25/83	5
98th (1984)	H.R. 5394	(1)	4/12/84	NA
99th (1985)	H.R. 3500	10/3/85	10/23/85	20
99th (1986)	H.R. 5300	7/31/86	8/24/86	24
100th (1987)	H.R. 3545	10/26/85	10/29/85	3
101st (1989)	H.R. 3299	9/20/89	9/26/89	6
101st (1990)	H.R. 5835	10/15/90	10/16/90	1
103rd (1993)	H.R. 2264	5/25/93	5/27/93	2
104th (1995)	H.R. 2491	10/17/95	10/25/95	8
104th (1996)	H.R. 3734	6/27/96	7/17/96	10

[1] Not reported.

Notes: The dates of bill consideration is the first day of consideration and is based on the date on which the rule was adopted. The layover period is based on the assumption that the report was available to Members on the first day after the report was filed (which may not always have been the case). Under clause 2(1)(6) of rule XI, it is in order to consider a bill on the third day the report is available to Members. All reconciliation rules, however, have routinely waived all points of order against consideration of the bill, even if the three-day availability requirement was complied with.

Sources: House Calendars.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules, for yielding me the customary half-hour, and I yield myself such time as I may consume.

Mr. Speaker, the reconciliation bills we are considering this week show very clearly the difference between Democrats and Republicans. To put it simply, on one hand, my Republican colleagues want to help people who make enormous amounts of money and inherit more money on top of that. On the other hand, Mr. Speaker, my Democratic colleagues and I want to help middle-class working families and small business owners.

When these bills come up for votes, we can take our pick. I think the choice is obvious. More than half the tax cuts in the Republican tax bill are for people making over $250,000 a year. Three-quarters of the tax cuts in the Democratic alternative are for people making less than $58,000 a year.

The Republican tax bill helps only richer families send their kids to college. The Democratic alternative gives a full $1,500 tax credit for college students. The Republican tax bill takes the $500 per child credit away from low-income working families. The Democratic alternative makes sure that every low- and middle-income working family gets the $500 per child tax credit.

The Republican tax bill, Mr. Speaker, gives huge tax breaks to rich people who sell stocks and bonds. The Democratic alternative gives tax breaks to the middle-class people who sell homes, who sell their farms or small businesses.

The Republican bill also marks a serious departure from the budget agreement. My Republican colleagues did not keep their word to provide the education tax credits they promised or to preserve the rights of legal immigrants that they also promised. The Republican reconciliation bill hands the richest 1 percent an additional $27,000 each, while it takes $63 away from each family in the bottom 20 percent.

Mr. Speaker, the Republican bill will mean serious trouble to our teaching hospitals. The Boston teaching hospitals alone will lose more than $700 million over a 5-year budget period.

Mr. Speaker, I do not know if our teaching hospitals can survive this kind of cut. They have already made huge changes, drastic changes, undergone complicated mergers and cut costs to save money, but the fact remains that last year Boston Medical Center saw 58,000 patients for nothing, 58,000 patients for free. Yet today my Republican colleagues are asking hospitals to make do with even less, and it is the same for teaching hospitals all over the country.

Mr. Speaker, the United States is lucky to have the best hospitals, the best medical care in the entire world. Take it from me, personally, I know this.

Mr. Speaker, I believe we should be doing all we can to keep American health care not only the best in the world but also keep it accessible to everyone. This bill does not do that.

In the Committee on Rules last night, my Republican colleagues rejected an amendment offered by the gentleman from Massachusetts [Mr. KENNEDY] to change the funding for children's health insurance so the States with children's health care laws already on the books like Massachusetts, like New York, like Florida are not penalized.

Mr. Speaker, I urge my colleagues to join me in defeating the previous question to make in order 22 amendments that were rejected in the Committee on Rules last night, including the Barton-Minge amendment on enforcing the budget agreement and the Taylor amendment to let veterans keep their veterans health care regardless of how old they are. I want to add, Mr. Speaker, that this veterans health issue has been cosponsored by nine of my colleagues on the Committee on Rules.

I urge my colleagues to defeat the previous question.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume, briefly to just repeat my favorite hero's line, "Well, here we go again," talking about the rich.

In the Hudson Valley where I live, it is about 200 miles long and 50 miles wide and has the Catskill Mountains on one end and the Adirondack Mountains on the other and a valley in between, there are very few rich people there. They are all hard-working people. They have worked all their lives. They have saved a little bit even under hard times.

Let me just give my colleagues one example, a couple I know that worked for Sears Roebuck. They worked for Sears Roebuck, both of them together, for 38 years. Sears Roebuck does not pay the highest salaries but they have a pretty good little pension plan and have a great stock option plan for people that work for them. For these 38 years, this couple has been taking advantage of those options, living with a wage scale much lower than their peers, but they managed to save the money and buy that stock and they have had it now for 35, 40 years. Do my colleagues know what that stock is worth today?

□ 1200

It is a nest egg that they can now retire on. They can, if they want to, move out of the cold north country where I live, and they can move to Florida, and they can buy themselves a little home, and they can live pretty decently for the rest of their lives.

Now my good friend the gentleman from Massachusetts [Mr. MOAKLEY] thinks those people are rich because they are going to take advantage of the capital gains tax cut. Well, I do not think that is rich at all. Those people have incomes of way under $70,000 combined, and they are going to be able to take advantage of this capital gains tax cut.

I also represent in that valley hundreds and hundreds of farmers; most of them are dairy farmers; and those people over the years have gotten up at 4 o'clock in the morning when it was 30 below zero.

I did a piece on public television last year in which we brought public television up there, and they saw these people out there at 5 o'clock in the morning milking these cows when it was 31 below zero. And, as my colleagues know, those people have paid the taxes on that farm, on those several hundred acres of land, and sure they are land rich, but they are cash poor. And now, if they pass away and their sons or daughters have worked on that same farm for all the time they were growing up, when they were 4, 5, and 6-years-old up to maybe 20 or 25, and now when they die the Federal Government is going to make them sell that land to pay the estate tax.

Mr. Speaker, that just is not right. As my colleagues know, they paid taxes on that land, they paid the income taxes all those years, and now they are going to be penalized and they cannot keep that farm in the family. It is happening all over Texas, it is happening all over America, but especially up in the north country where I live where it is doggone tough to make a living especially in the winter time.

So let us have enough of this rich talk, and let us get on to give meaningful tax cuts to all of the American people. That is what America is all about.

Mr. Speaker, having said that, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS] one of those northerners that moved to Florida many years ago. He is the chairman of the Permanent Select Committee on Intelligence, but he is also a very valuable member of the Committee on Rules, and I yield to him to get some of his sage advice.

Mr. GOSS. Mr. Speaker, I thank the distinguished gentleman from New York [Mr. SOLOMON] for yielding this time to me, and I obviously rise in strong support of this fair and I think very appropriate rule for what we are about, which permits consideration of 2 important measures, the Balanced Budget Act and the Taxpayer Relief Act, in fact probably one of the most important things we will do in this session of Congress.

Today, we take another major step toward the first balanced budget in over a generation, as the gentleman from New York [Mr. SOLOMON] said, and the first actual relief for American taxpayers in almost a generation. Despite this indisputable progress, we continue to hear this same tired rhetoric, we have already heard it, this class warfare from the defenders of the status quo. As usual they claim they have a study or they will get one that proves that the majority of the tax cuts are going to go to the, quote, rich. Of course, they define rich to suit their own purpose.

Mr. Speaker, if someone earns $40,000 a year, the big Government crowd is going to consider them rich, and this is how they are going to do it: artificially inflate their income through the addition of their future pension as well as the potential rental value of their home. I am sure this is going to be news to thousands of new-found rich people in my district, and I imagine they are going to be a little shocked by it, as the rest of America will be as they discover they have been elevated to rich.

Mr. Speaker, actually the definition of rich is, "If you're not on welfare, you're rich."

Given these partisan distortions it is important to let the American people know that what we are doing today is important work and it is going to affect them, and it is going to affect them positively.

We are taking the necessary steps to save the Medicare Program, and it is facing impending bankruptcy. But instead of resorting to the tax increases and the draconian provider cutbacks that we have talked about in the past, we achieve our savings through patient choice. Americans want choice in their medical care, and we are providing choice, and we are using free market competition, and we believe Americans will have better access, better choice, better medical service in the end, and we think we will end up with a stronger Medicare program as a result.

We are also providing overdue relief to families through the child tax credit and reform of the punitive death tax. I do not understand why we do not all understand that any American who works hard, saves little and wants to provide for his wife and his kids after he is gone, or his grandkids, should be able to do that. Why should the Government come in and take all of his hard work? After all I think what propels a great amount of the work in this country is the responsibility individuals have to go to work and provide for their families.

As a father of four I certainly feel that way. I think most Americans do. I think I owe it to my family and to my community and to my country to look out for my family and provide for them. I do not go for this new mantra that Uncle Sam has been replaced by Father Government. Government is not my daddy, and it is not anyone else's either. I think we need to get away from that and remember that the people who work in this country work with the sense of responsibility to their family and should be able to provide for them after they are gone.

We will furnish responsible Americans with more ways to save for their future by expanding IRA's, and we will promote economic growth by slicing the punitive capital gains tax.

But most important, today we will send a message to our children and our grandchildren that their future is not going to be mortgaged for Washington's profligate spending habits, and we all know what they are. The last time this Congress balanced the budget our national debt stood at $368 billion, and $368 billion is a lot of money. Today that national debt is at $54 trillion, trillion, and it is still climbing. With this package Congress has finally acknowledged what most American have known for a very, very long time: Uncle Sam is obese, Uncle Sam needs a diet, and it is time.

Mr. Speaker, today is about historic progress; slow and steady, yes, but it is progress. This package is not perfect, but it is very good work, and it is bipartisan, and it is multibranch. And, yes, there is more to do, and there always will be if we are going to have jobs up here in Washington representing the people of this country, and that is the form of Government we have.

But above all this package represents a hard-earned victory, I think, for the American taxpayer, the middle-income earner, the hard worker, the people out there worrying about the future of their families and their kids. And I think it is a victory for our kids, too, because we are going to rein in taxing and not send the bill to them any more.

I very passionately urge for a "yes" vote on this rule and for the important reconciliation bills that it carries. This is the work we are about; this is what we are asked to do.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I voted for the balanced budget resolution, and I know that both Democrats and Republicans in this House believe strongly in a balanced budget. But this proposal the Republicans have put forward today is not fair to working class, middle-class, people; it is not fair to seniors, and it is not fair to children, and I want to tell my colleagues why.

These tax cuts that the Republicans have proposed, they are for the wealthy, wealthy individuals and corporations. They are not helping the working middle-class person. The person who needs that child tax credit in many cases is not going to get it even though they are working, sometimes two parents working. The person who needs that college credit, either a tuition tax deduction or a hope scholarship program, that money is not going to be fulfilled. What the President promised is not in this. The Republicans have broken the deal, and they are not giving middle-class and working-class people that college tuition break that they were expecting as part of this deal.

And Medicare, Medicare for seniors, we were promised this was going to be solvent and we were going to work toward the solvency. They have put in, the Republicans, provisions that will break the Medicare Program.

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLOMON] has 12 minutes remaining, and the gentleman from Massachusetts [Mr. MOAKLEY] has 24 remaining.

Mr. SOLOMON. Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, the gentleman from New York, Mr. SOLOMON'S, speech was so soothing and charming, I did not realize he used all that time.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, today is the day when we begin the process where we rearrange the priorities of this Nation, where we rearrange the priorities of this Nation

that for many years has taken care of the senior citizens of this country by providing them Medicare healthcare coverage for their elderly years, where we rearrange the priorities of this Nation where we have tried to make sure that children had coverage of health care, where we have tried to provide families the means by which they could pay for the college education of their children.

What we now see in the budget plan that we will debate this afternoon and in the tax bill that we will debate tomorrow is that all of those goals, all of those ideals of this Nation, are threatened because we have to have a tax bill that gives $27,000 in relief to people making more than $250,000 a year.

Twenty-seven thousand dollars in tax relief, which is more than many families make all year long, must go to the wealthiest 1 percent in this country, and how do we pay for it? We pay for it by reneging on the promise to provide health care coverage for children. In the Senate they now talk about making 8 million elderly people who are between the ages of 65 and 67 wait 2 more years before they would have Medicare coverage by increasing the cost of the Medicare to those individuals.

As my colleagues know, the interesting thing is that after the vote we took in 1993 where no Republicans voted for President Clinton's plan, we have dramatically reduced the deficit. The deficit is on its way to a balanced budget. If we did nothing, the budget would be balanced and we could take care of the problems in Medicare and Medicaid.

But the Republicans have chosen another path. They have chosen the path to try to again return to the days where corporations that make millions of dollars in profit every year, as they did before 1986, would pay no taxes. They want to return to the days where people who can clip coupons pay a 20 percent tax rate while hard-working Americans pay a 28 percent tax rate.

It is not fair, it is not equitable, and it is not right.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the Federal budget should be a statement of our national values. How we spend the public's money should reflect what is important to us in our country, and surely we all agree that the health and well-being of our people should be a national priority. Indeed the American people continue to believe that access to quality health care should be a national priority.

Unfortunately, the reconciliation bill does not expand access to health insurance. Indeed, this bill makes access to health care more difficult. Why are we moving toward covering fewer people than more people?

Under this bill and actions taken by the Senate, an American baby born today would not have access to quality health care insurance until she is 67 years old. The bill before us today does not live up to the promise of expanding health care insurance to 5 billion of the 10 billion uninsured children in the United States. The way the Republicans have structured the bill, the child health block grant, there is no guarantee that even one additional child will have health insurance coverage.

The Medicaid cuts in this bill threaten children's hospitals and other safety net health care providers. Why would we target children's hospitals and county hospitals caring for the uninsured as a place to make an enormous spending cut to fund the tax breaks for the wealthy? Forcing public hospitals to close their doors will further reduce access to care, particularly for uninsured children. When we combine these changes with provisions in the bill to exempt even more health care plans from State consumer guidelines, we have a total package that weakens access to quality health care insurance for all Americans.

The American people do not again want us moving backward on access to health care.

Again, the Republican bill does not deliver on the promise of health insurance for uninsured children. Indeed, the Republican bill violates the goals of the budget agreement. On that basis alone we should reject the rule and kill the bill.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Speaker, we are going to debate the tax bill tomorrow, and we will show how their bill on the majority side would blow a hole in the budget, and we will show how they are using phony figures. But today we are debating the spending resolution.

I voted for the budget resolution. Trouble with this spending resolution is it violates the budget agreement, purely and simply. It does so on legal immigrants. It draws an irrational and inhumane line, contrary to what they agreed to. It also goes beyond the budget agreement, and it withdraws from people moving from welfare to work the protections of the Fair Labor Standards Act. All they put back is a minimum wage standard, but there is no Federal protection to be sure that that is paid, and they do not provide against sexual harassment and employment discrimination.

Mr. Speaker, second class citizenship is not the answer for people moving from welfare to work.

We ask the Committee on Rules to grant us amendments to cure these, they turned us down. We should turn down this budget resolution.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I am somewhat confused. If my colleagues read this morning's paper or if they talk to those that attended a Democratic caucus, it is quite clear that the administration attended that Democratic caucus and is urging them to support this reconciliation bill that is before us today, that most of the problems that they had with, especially the OMB Director, Mr. Raines, had been worked out, there were some glitches, but they could be solved in conference.

□ 1215

So I am really surprised to hear some of the statements being brought up here today.

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON], chairman of the Committee on Rules, for yielding.

I think the chairman understands that a number of us, on a bipartisan basis for several years, have been trying to do something to put some enforcement mechanism into the existing Budget Acts that govern our Nation.

We have a piece of legislation, H.R. 2003, the bipartisan Budget Enforcement Act, that is pending before the Committee on Rules, the Committee on Ways and Means, and the Committee on the Budget. There have been a series of meetings and discussions this morning.

It is my understanding that as chairman of the Committee on Rules, the gentleman from New York [Mr. SOLOMON] has agreed to an expedited procedure whereas this piece of legislation, perhaps as amended, will be brought to the floor for an up or down vote no later than July 24.

Is that the understanding of the chairman of the Committee on Rules?

Mr. SOLOMON. Mr. Speaker, reclaiming my time, yes, it is my understanding, and that is an ad hoc agreement, which, after meeting with the gentleman from Texas [Mr. BARTON] and members of the gentleman's group, along with Members of the Republican leadership, we have agreed that the three committees of jurisdiction, the Committee on Rules, the Committee on Ways and Means, and the Committee on the Budget, would have an opportunity to look at the legislation.

Mr. BARTON of Texas. Mr. Speaker, the number is H.R. 2003, the bipartisan Budget Enforcement Act. The gentleman from Texas [Mr. STENHOLM] and the gentleman from Minnesota [Mr. MINGE] and the gentleman from Indiana [Mr. VISCLOSKY] and several others.

Mr. SOLOMON. Mr. Speaker, certainly the Committee on the Budget has agreed, and so has the Committee on Rules. Now the gentleman understands that the gentleman from Texas

[Mr. ARCHER], who has jurisdiction as well, will agree as long as he has time to consider in his committee.

I just want to make this understanding clear, that the agreement in no way prejudices the ability of the Committee on Rules and the Committee on the Budget who share jurisdiction over budget process to report a budget process reform bill on their own at a later time.

Mr. BARTON of Texas. Mr. Speaker, that is my understanding. This does not fence off any other legislation on the same subject, but it does commit the chairman of the Committee on Rules, the Speaker of the House, the majority leader, the majority whip, and the chairmen of the committees of jurisdiction to work in an expeditious fashion to bring this particular bill, perhaps as amended, to the floor, and perhaps at the same time other bills that deal with the same subject.

Mr. SOLOMON. Mr. Speaker, I think we are in full agreement. Let me just say to the gentleman I appreciate his understanding.

As the gentleman knows, on the Republican side there were some 31 Members that had concerns with both the tax bill and the spending cut bill. We had asked them not to come before us and ask for changes to be made because it would disrupt the agreement that we might have with the White House, and there were a number of Democrats on the other side of the aisle requesting the same thing. We did not allow them, as we did not allow the gentleman.

So the gentleman is being very reasonable and I appreciate it, and we are committed to bringing this to the floor by July 24.

Mr. BARTON of Texas. Mr. Speaker, I want to express my commitment to the chairman of the Committee on Rules that I will vote for this rule and I will encourage all of the Republican Members who I have been discussing this issue with to also vote for the rule, so that we can bring this reconciliation package to the floor.

Mr. SOLOMON. Mr. Speaker, I certainly thank the gentleman for being so reasonable.

Mr. CASTLE. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Delaware.

Mr. CASTLE. Mr. Speaker, I would just like to say that the leadership of the Republican Party in total was involved in this. I think that is very important to understand. They were very accommodating.

It has always been agreed that if this were able to be passed on the floor of the House of Representatives, and by the way, there is no commitment to actually support this bill from any of the leadership, but if it did pass, it would become part of the House conference package in terms of dealing with the reconciliation bill with the Senate which I think is important as well.

Mr. WAMP. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Tennessee.

Mr. WAMP. Mr. Speaker, I commend all that have been involved in a very bipartisan way, and just for the people whom I think we so adequately represent here in this body across the country that are wondering maybe what this is all about, this is a group of a few Members on both sides of the aisle that have gotten together and said that the discipline needs to be integrated into this budget agreement. There is a panacea out there that this is a great thing, and I think it has the potential of being a great thing if we follow through on it, and if we do not allow certain predictions that are part of our assessment today that might not come true to blow the thing apart later on. That is what this is about, enforcement provisions.

Frankly, neither party has an exclusive on ideas or integrity, and much of this comes from the Blue Dog Coalition on the other side and very accurately, they have assessed that we need some discipline written into this agreement, and many on our side, led by the gentleman from Texas [Mr. BARTON] and the gentleman from Delaware [Mr. CASTLE] and myself, have agreed to this, and now our leadership is accommodating our request that we have an opportunity to bring to this floor the details of how we need to enforce this provision as we go forward.

I think that is important for the people to know, and people who have suspicion about this budget agreement can know that we are working to improve it before we finally report it out.

I thank the gentleman for yielding.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for his comments.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

I would like to tell the gentleman from Texas [Mr. BARTON] that we thought his amendment was a great one and we brought it forward for a vote, but we were outvoted. We have another chance, because if we defeat the previous question, we are going to put the Barton amendment in. So the gentleman still has a chance to get his amendment passed.

Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. Speaker, I voted for this budget agreement and a number of Members from 13 of the 50 States voted for this budget agreement, but I do not think they voted to agree that their States would be cut disproportionately under the Medicaid program, under the Disproportionate Share Program that is in this bill.

This bill before us today, the spending bill, will treat States like Texas, Colorado, Connecticut, Louisiana, Tennessee, that the gentleman just spoke from, and several others twice as badly as all the other States and 100 times as badly as some of the other States.

This bill says that those 13 States will have their disproportionate share of funding cut by 40 percent by the year 2002. That is not the budget agreement that this Member voted for and I do not see how any Member from any of those States could vote for this rule.

Now, if we defeat the previous question, included in the amendments that the gentleman from Massachusetts intends to offer is to correct this. We are not talking about dollars, we are talking about equity among the States.

Mr. SOLOMON. Mr. Speaker, I yield 2½ minutes to the gentleman from Ohio [Mr. KASICH], the distinguished chairman of the Committee on the Budget.

Mr. KASICH. Mr. Speaker, let me just suggest that everybody in the House is concerned about the formula whereby we help those hospitals that have a disproportionate share of poor people who they attend to. It is interesting to note that Texas is one of the largest recipients of DSH money and they have a concern about how this agreement is going to affect them, based on the formula that distributes this money.

I have a concern about it not only as it applies to the State of Texas, but to the State of Ohio, to the State of New Jersey and the State of New York and every State in the country. Writing a formula that affects the DSH payments, the disproportionate share of payments, is going to be like, well, it will be a rougher fight than Tyson-Holyfield this weekend.

The fact is that in the conference committee we are going to have to create a new formula. We cannot write a formula on the House floor. We should not even try to write a formula on the House floor. We should not want to write a formula on the House floor.

What we should do, if I could be so presumptuous to give this advice, is to indicate the fact that we do not have it right yet and that we should go to the conference committee and we ought to get it right, as right as we can. I can promise my colleagues, it is just like reform of the IRS or the tax system, at the end of the day, nobody is going to be happy with the way we pay taxes, and at the end of the day, no one is going to be happy with the way in which we distribute money to help hospitals pay for the poor. But what we do intend to do is to get it as right as human beings can, representing 50 States around the country.

So the point is, I feel your pain when it comes to my colleagues' concern about DSH payments. So the fact is, let us not try to say that we are trying to shut somebody off or having a formula debate on the House floor. We cannot fix it here. It would not be right

to fix it here. We would not get it right here and we would end up hurting poor people in the final analysis.

So let us just stay cool, let us adopt the rule, let us make an effort to get the formula fixed in conference, and I am willing to work with all of the Members of the House to participate to come up with something that is as fair and equitable as we can among the 50 States.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in strong opposition to the rule because it does not make in order an important bipartisan enforcement amendment proposed by our colleagues, the gentleman from Texas [Mr. BARTON] and the gentleman from Minnesota [Mr. MINGE]. The Barton-Minge takes a common sense approach to enforcing the budget reconciliation bill. It acknowledges that our best hope of actually balancing the budget is to put every section of the budget on the table, including entitlements and revenues, and that we must hold the President and the Congress accountable.

Enforcement is important. The lessons of previous budget resolutions is that agreeing to a balanced budget does not guarantee it will be. No fewer than four times over the last 15 years Congress and Presidents have approved budget-balancing amendments, but they have not led to a balanced budget because they were not enforceable.

We have been told repeatedly that enforcement mechanisms should be addressed. We have been told by the Committee on the Budget, enforcement should be addressed. We have been told by the Committee on Rules, enforcement should be addressed. It has not been addressed in this rule.

Mr. Speaker, I rise today in strong opposition to the rule because it does not make in order an important bipartisan enforcement amendment proposed by our colleagues, Mr. BARTON and Mr. MINGE.

The Barton-Minge amendment takes a common sense approach to enforcing the budget reconciliation bill. It acknowledges that our best hope of actually balancing the budget is to put every section of the budget on the table—including entitlements and revenues—and that we must hold the President and the Congress accountable if we do not live up to the budget targets agreed to earlier this month.

While I voted for the budget resolution earlier this month, I did so with serious reservations. One of my most serious concerns is the lack of meaningful enforcement procedures to ensure that the budget is balanced as projected by the year 2002.

The lesson of previous budget resolutions is that agreeing to balance the budget does not guarantee that the budget will actually be balanced. No fewer than four times over the past 15 years Congress has approved budget agreements that were supposed to get us to a balanced budget, but failed to actually do so.

For example, in 1982, the budget resolution called for a balanced budget in 1984. Yet, the budget was not balanced by that date. In 1985, under Gramm-Rudman I, we were told that the budget would be balanced in 1991. It was not.

In 1987, under Gramm-Rudman II, we were told that the budget would be balanced in 1993, but it was not. In 1990, under the Budget Enforcement Act, we were told that, finally, the budget would be balanced in 1994. Again, it was not.

The common thread in these failed attempts to balance the budget was the lack of a meaningful enforcement mechanism.

I would also like to point out that enforcement is not a new or transitory issue. In the last two Congresses I sponsored important legislation designed to bring strong enforcement procedures to the budget process. This legislation, the Balanced Budget Enforcement Act, was originally introduced by then-chairman of the Budget Committee Leon Panetta and, after that, our former colleague from Minnesota, Tim Penny.

I have appeared before both the Rules Committee and the Budget Committee asking that comprehensive enforcement mechanisms be included in the budget process. So far, however, no action has been taken by either committee.

Leading up to consideration of the budget reconciliation bill, we were told that enforcement would be addressed as part of the legislation. Unfortunately, however, the Rules Committee did not make the Barton-Minge enforcement amendment in order, and we again find ourselves with a major budget bill that contains no serious enforcement language.

Mr. Speaker, I am extremely disappointed that this rule does not make language on enforcement in order, and I urge my colleagues to oppose it.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, for those of us who are truly committed to achieving a balanced budget that will remain balanced, this first effort to implement the balanced budget agreement represents a true setback. They call this bill that we have under consideration today the reconciliation bill. Really, it is the wreckonciliation because it wrecks this budget agreement, and the first area in which it wrecks the budget agreement is by not having an adequate enforcement provision.

Mr. Speaker, there is nothing new about promising a balanced budget in Washington. It is the guarantee of a balanced budget that really has some meaning, and around here a promise never seems to be a guarantee. We do not need more promises of a balanced budget, we need a guarantee, and we need it in this proposal. Rather than wrecking the budget agreement, we ought to be guaranteeing a truly balanced budget.

What does this reconciliation bill say to the young American family that is out there struggling to make ends meet? Well, if we listen to the Republicans here in Washington, it says to that young American family, when you reach age 65, do not count on having any health protection because your Medicare coverage will not be there. We are going to escalate the age to 67 before you ever get Medicare coverage.

□ 1230

What does it say to the children of that working American family, not people on welfare, but where perhaps both parents are struggling to climb up that economic ladder? It says no health insurance.

Surely this must be the only modern industrialized country in the world where we have 10 million children who have no health insurance, and no hope from this reconciliation bill that it is going to get any better, from zero to age 67. No guarantee, is the goal of this Republican Congress for health insurance coverage.

It is time not to wreck the budget agreement, deny enforcement provisions, and deny the guarantee of health insurance that so many people need in their youngest age and in the oldest age. Vote "no" on this rule.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I rise in strong opposition to this rule, because here we go again. Passage of a reconciliation bill that is projected to balance the budget by the year 2002 does not guarantee the budget will actually be balanced. Americans are tired of Congress and the President making unfulfilled promises about balancing our budget.

Mr. Speaker, I appreciate the work the gentleman from Texas [Mr. BARTON], the gentleman from Delaware [Mr. CASTLE], and the gentleman from Tennessee [Mr. WAMP] have done, but I am a great believer that a bird in the hand is worth two in the bush. Today is the time for us to deal with enforcement. I was sincerely disappointed that the Committee on Rules chose to report a rule that would not allow the House to consider the Barton-Minge balanced budget agreement.

Our only request of the Committee on Rules is that we be given a fair shot to offer our proposal for an up or down vote. Members from the left and right oppose our amendment. Why not let it be considered at the appropriate time, when we have the best chance of getting it done?

Whether Members support the balanced budget agreement and the reconciliation bill, which I do, I strongly encourage all Members who are committed to achieving a balanced budget to vote against the rule. If we do not deal with the matter today, it will not be dealt with.

Mr. Speaker, I rise in strong opposition to this rule. I do so as one who supports the bipartisan budget agreement because this rule prevents consideration of an amendment that would ensure that this budget agreement lives up to all the promises being made by those of us who support the agreement. Joe Barton and David Minge submitted an amendment on behalf of a bipartisan group of more than two dozen members who believe that this budget agreement must include strong budget enforcement procedures to make this a credible balanced budget plan. Unfortunately, this rule does not make the Barton-Minge amendment in order.

While passage of a reconciliation bill that is projected to achieve balance by 2002 is a significant accomplishment, I would remind my colleagues that history has taught us that passage of a reconciliation bill that is projected to balance the budget by 2002 does not guarantee that the budget will actually be balanced in 2002. We need only look to the experience of the 1990 budget summit to be reminded how quickly a balanced budget plan can fall off course. Americans are tired of unfulfilled promises about balancing our budget. The Barton-Minge amendment will prevent this budget from repeating the failed promises of past balanced budget plans by putting teeth in the budget agreement.

The Barton-Minge enforcement amendment would establish a comprehensive enforcement mechanism that would require Congress and the President to ensure that actual spending and revenues over the next 5 years meet the goals of the budget agreement. It would enforce all portions of the budget—spending and revenues—without exceptions to ensure that everyone has a stake in keeping the budget on a path to balance. Critics who complain about the harmful effects of triggering sequestration or delaying the phase-in of tax cuts are missing the point. The goal of any enforcement mechanism is to establish a hammer with severe consequences to give Congress and the President the incentive to take action immediately when the budget falls off the glidepath to balance to avoid triggering enforcement.

The Barton-Minge amendment has bipartisan support because enforcement would be targeted to the portion of the budget that causes a problem. Spending programs that grow faster than this budget assumes would be sequestered; the phase-in of tax cuts would be delayed if revenues are lower than assumed under this budget. Tax cuts will not be affected because spending grows too fast; and spending will not be cut if taxes are below projections.

I was sincerely disappointed that the Rules Committee chose to report a rule that would not allow the House to consider the Barton-Minge balanced budget enforcement amendment. Our only request was that we be given a fair shot to offer our proposal for an up or down vote. I understand that many committee chairman oppose this effort to enforce the budget agreement and that Members from the left and right have concerns that our amendment is too strong and would vote against it. I welcome the opportunity to respond to these criticisms and debate the issue on the merits. Unfortunately, this rule prevents us from having that debate.

Whether or not you support the budget agreement and the reconciliation bill that the House will consider today, I strongly encourage all Members who are committed to actually achieving a balanced budget to vote against this rule so that the House may consider legislation that makes this balanced budget plan meaningful.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee [Mr. TANNER].

Mr. TANNER. Mr. Speaker, I want to second what the gentleman from Texas [Mr. STENHOLM] and the gentleman from Indiana [Mr. VISCLOSKY] said. I am not interested in being a party to a balanced budget agreement that does not translate itself from an idea to a reality.

There have been well-intentioned people in this town since 1980 who have tried mightily to balance the budget. This enforcement mechanism that was denied a vote on by this body, by the Committee on Rules, itself I think warrants a "no" vote, because, Mr. Speaker, this is the mechanism that translates the idea of a balanced budget, which most of us embrace, to actual reality. Without it, we are, I think, going down the same path as those that were here before us. We cannot afford that path again.

We are spending over $250 billion a year in interest now. The future is bleak, indeed, for the young people if we do not put an enforcement mechanism in this agreement. I wish we would vote "no" on the rule.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. TURNER].

Mr. TURNER. Mr. Speaker, I rise in opposition to the rule for the reason that the committee failed to acknowledge the importance of including enforcement language in this budget reconciliation bill. The truth of the matter is that the American people believe that when we, in great fanfare, just a few weeks ago announced a balanced budget agreement, they believe the balanced budget agreement is something that has meaning to it, not an empty promise.

I think we in this Congress all need to tell the American people that a budget agreement resolution is no more than a New Year's resolution, and it is no more than a promise that can be broken without effective enforcement language put into the law.

The bipartisan Barton-Minge budget enforcement amendment needs to be in the budget reconciliation bill that this Congress will adopt. A promise to consider it later is not enough. The American people expect and deserve that we in the Congress will keep our promises for a balanced budget by 2002.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. ENGLISH].

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I rise in support of the rule.

Mr. Speaker, I rise in strong support of several reconciliation changes contained in the proposed manager's amendment that will be self-executed in this rule.

The amendment contains an additional $1 billion in relief for low-income seniors from the cost of their part B Medicare premiums. This change will further strengthen our bipartisan plan to save Medicare.

the amendment also provides credible protections for participants in workfare programs. Specifically, it would strengthen minimum wage requirements, clarify the 40-hour work week, and adopt strong nondiscrimination provisions relating to age, race, gender, and disability. It also protects other workers with strong nondisplacement language.

The amendment contains other improvements, especially its designation of $100 million to empower states and extend Medicaid benefits for children affected by Social Security eligibility changes. This is a useful and balanced amendment, and I urge adoption of the rule.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Speaker, I urge a no vote on the rule. There is a crisis of faith in this country. People every 2 years run for office and ask for the privilege to serve in Congress. They say they are going to do things, and when the time comes to do those things, they find a reason to see to it that they do not. All across the country people ran for Congress and said, we are going to restore the promise of lifetime health benefits to those people who served in our military honorably for 20, 25, 30 or more years.

There are 181 people who cosponsored a bill to do just that, including the chairman of the Committee on Rules: the gentlewoman from Ohio [Ms. PRYCE], the gentleman from Georgia [Mr. LINDER], the gentleman from Florida [Mr. DIAZ-BALART], the gentleman from Colorado [Mr. MCINNIS], and the gentleman from Washington [Mr. HASTINGS]. Yet, yesterday when the opportunity came before them to bring this measure to the House floor so we could restore that, so we could give the only people in America who were promised free health care for life, to fulfill that promise for them, those people voted against it.

They will not give the majority the chance to vote for it, to take care of our military retirees, the same people who went to Korea, the people who went to Vietnam, the people who went to the desert, the people who are in Colombia today. They said, these people do not count.

We ought to defeat this rule. We ought to vote "no" on the previous question, and we ought to allow the Hefley bill, which is cosponsored by 181 Members of Congress, to fulfill the promise of lifetime health care to our military retirees, to be voted on up-or-down, so we can see whether those people who went back home and said they

were for our military retirees really are, or whether it was just another empty promise.

Mr. Speaker, there is a crisis of faith in this country because people are not doing what they said they would do. We have a chance to correct that today, we really do.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Mrs. TAUSCHER].

Mrs. TAUSCHER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong opposition to the rule. I object to the decision by the Committee on Rules to refuse to allow the Barton-Minge amendment, of which I am an original cosponsor, which would add strong budget enforcement language to the legislation. While I strongly support this historic budget agreement, I am concerned that without proper enforcement mechanisms, spending will run out of control and tax cuts will balloon, thereby voiding the balanced budget agreement.

A bipartisan group of Members has developed a proposed amendment to ensure that, when actual spending exceeds spending targets, Congress would have to take action by December 15 or automatic cuts would go into effect. Similarly, if revenues failed to meet the expected level, any phase-in of tax cuts would be delayed.

There have been numerous attempts to instill fiscal responsibility in the budget process, but those attempts have failed because they were unenforceable. Let us not allow this agreement to fall prey to the same shortcomings. I urge my colleagues to defeat the rule.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS. Mr. Speaker, I thank the ranking member for yielding time to me.

Mr. Speaker, I rise in opposition to the rule. I would say that there is no higher purpose for those who have been called to this House than to stop the practice of borrowing money to run the U.S. Government and sending the bill to our children.

I do not doubt for one minute the good intentions of those who put this budget agreement together, but I sure do doubt what might happen as a result of those intentions if we do not have the enforcement language of the Barton-Minge amendment.

Here is what it says without it. If Congress spends more than we planned under this agreement, do Members know what happens? Nothing. If the Tax Code does not bring in as much money as we thought it would because of the tax cut, do Members know what happens? Nothing. Without this amendment the deficit will rise, the balanced budget will be in jeopardy, and we will continue the practice we all came here to stop.

I urge my colleagues to oppose this rule, and when we get a chance vote for the Barton-Minge amendment when it comes to the floor.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in opposition to the rule. As the ranking member on the Subcommittee on Health and the Environment of the Committee on Commerce, I, with my Democratic colleagues, offered several amendments to improve the Medicare-Medicaid and children's health care expansion provisions in the Budget Reconciliation Act.

Most important, perhaps, of these would have reduced the number of Medicare MSA policies which could be issued from 500,000 to 100,000, thus saving approximately $1 billion over 5 years. These savings would be used to cover the copay for beneficiaries who will be covered for annual mammographies, bone mass testing, colorectal and prostate cancer screening, and a portion of the cost of test strips for diabetes under Medicare.

Last week a similar bipartisan amendment was offered and passed bipartisanly in the Senate Finance Committee which would scale back the demonstration project to 100,000 policies. Unfortunately, Republicans on the Committee on Rules neglected to allow us to offer this amendment, even though we only lost it in committee by one vote. It was part of the budget agreement originally. It makes sense, Mr. Speaker.

I urge my colleagues to oppose the rule when it comes before the House.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana [Mr. JOHN].

Mr. JOHN. Mr. Speaker, I thank the gentleman from Massachusetts for yielding time to me.

Mr. Speaker, I rise in strong opposition to the rule. What are we afraid of? Are we afraid of keeping our promises? That is what we are talking about. We are talking about enforcing a balanced budget agreement that only 2 weeks ago everybody was praising. Everybody was talking about how great it is. But it is only worth the paper it is written on without some kind of enforcement.

What are the opponents of enforcement scared of? They are scared of keeping our promises? I would hope not. I would hope that the American people will support us in putting enforcement in a budget that could explode if we are off on some of our economic figures.

Mr. SOLOMON. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, I strongly appreciate the support that the Barton-Minge amendment has on both sides of the House, and I want to point out that under the colloquy agreement, we will get that vote on enforcement no later than July 24. If we win on the floor, it will be in the reconciliation package in the conference. So I would hope we would vote for the rule.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I cannot believe the gentleman from Texas would not vote against the previous question so he can get immediate recognition of this provision.

Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. LEWIS], the minority whip.

Mr. LEWIS of Georgia. Mr. Speaker, I rise to urge my colleagues to defeat this rule. This bill that the Republicans are bringing to this floor breaks the budget deal the Republicans made with the President. On issue after issue this bill is in violation of the budget agreement.

Mr. Speaker, how can the President negotiate if they will not deal in good faith, if they will not keep their word? On children's health care, this bill breaks the deal. On protecting disabled legal immigrants, the bill breaks the deal. On providing worker protection for people moving from welfare to work, this bill is not in keeping with the spirit of the deal.

Mr. Speaker, this bill violates both the spirit and the letter of a balanced budget agreement. Defeat the rule, defeat the bill. It is not the deal made with the President. It is not the deal made with the American people.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. BOYD].

□ 1245

Mr. BOYD. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I am a strong supporter of tax relief for American families that is fair and fiscally responsible. I am a strong supporter of the balanced budget agreement. I voted for that. I rise today in opposition to this rule because this bill that we are addressing today does not meet the criteria that is necessary to see that we have both of those things.

I am deeply concerned that this reconciliation bill, as it is written without very important necessary enforcement language, that is, the Barton-Minge language that should have been included, will blow a hole in the deficit past the year 2002. Look back at history and exactly what happened with the other balanced budget plans that this U.S. Congress passed in the past.

We worked too hard to get this far. We have a unique opportunity to get this budget balanced and establish an economic policy that will guarantee long-term balance for the U.S. Government.

The tax cuts that we have in here, especially indexing of capital gains and the very long 10-year phase-in of estate taxes, is bad. I implore Members to vote against the rule.

Mr. MOAKLEY. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I urge Members to defeat the previous question. If that previous question is defeated, I will offer an amendment to the rule which will make in order 22 amendments, including the amendment by the gentlewomen from Florida, Mrs. MEEK and Ms. ROS-LEHTINEN that would preserve Social Security and Medicaid payments for elderly or disabled legal immigrants as amended by the gentleman from Mississippi, Mr. TAYLOR, which gives guaranteed health coverage to military retirees when they become Medicare eligible, an amendment by the gentleman from Texas, Mr. BARTON, and the gentleman from Minnesota, Mr. MINGE, which incorporates budget targets into the law and holds the President and the Congress accountable if the actual budget outcomes do not meet the budget agreement goals.

Mr. Speaker, these are all very important amendments and the House should have an opportunity to consider them. I urge no on the previous question and defeat the rule.

The SPEAKER pro tempore (Mr. COMBEST). The gentleman from Massachusetts [Mr. MOAKLEY] has 3 minutes remaining.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the very distinguished gentlewoman from Columbus, OH [Ms. PRYCE], a member of the Committee on Rules.

Ms. PRYCE of Ohio. Mr. Speaker, I thank the distinguished chairman of the Committee on Rules for yielding me the time.

I rise in strong support of this rule and the reconciliation package and I am very encouraged by the compromise to address the enforcement issue.

Mr. Speaker, even without that in this bill, boy, have we come a long way. Mr. Speaker, the growth in the 1980's showed us what can happen when we give the American people the tools that they need to grow and prosper. The same is true today. Government does not create new jobs. Government does not build stable families. Our challenge is to restore growth and opportunity and to sustain it for future generations. This reconciliation package holds the beginning of an answer to that challenge. Nobody calls it perfect, but it is a start and it is sure about time.

It combines budget restraint with progrowth tax policy. By preserving and strengthening Medicare, it honors our commitment to older Americans. By including a child tax credit and new savings incentives it will help families to keep more of their hard-earned money to spend on things they need most of their lives.

This package is an honest bipartisan attempt to help those who will create tomorrow's growth and prosperity, the earners, the savers, the taxpayers who work hard; those people that get up earlier, stay at the office a little later, the ones that play by the rules, take a few risks and strive to build a better future for their families and communities.

Mr. Speaker, after years of unbalanced budgets, deficit spending and high taxes, the chance to begin restoring the American dream is finally within our grasp. Let us seize it. Let us not miss this historic opportunity to give our children and grandchildren the bright economic future they deserve. I urge my colleagues to support this fair, this balanced rule and to vote for this reconciliation package.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute and 10 seconds to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Speaker, I thank the gentleman from Massachusetts for yielding me this time.

I think it is important for people in this country to know what this rule does. If you are poor and you are on Medicaid, this bill takes away the right of your physician to determine when you should be discharged from the hospital. We put that in in committee. We did that on purpose, because you have a right to have quality care and the profits of a health insurance industry should not come above that. This rule does not take it out of Medicare. We put it in Medicare, too.

But AARP is such a strong force that we did not have the courage to take it out in the Medicare portion of this bill. So if you are poor, you are blown away. If you are protected by Medicare, you are protected for right now. When it gets to conference, your ability to have quality medical care determining your discharge based on what is best for your health is going to be eliminated in conference. That is the plan.

So, America, wake up; this bill determines your health care and your quality not by your physician but by the insurance company that is running the managed care program.

I thank the gentleman very much for yielding me the time.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. COBURN. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Speaker, is the gentleman opposed to the rule?

Mr. COBURN. Mr. Speaker, I am not voting for this rule.

Mr. MOAKLEY. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I yield the balance of my time to the gentlewoman from Connecticut [Ms. DELAURO].

The SPEAKER pro tempore. The gentlewoman from Connecticut [Ms. DELAURO] is recognized for 2 minutes.

Ms. DELAURO. Mr. Speaker, I rise today to urge my colleagues to vote against this rule. This bill breaks the balanced budget agreement and it hurts average middle-class families in this country. I voted for the balanced budget agreement. This is not the bill that I voted for. I did not vote for a bill that hurts the middle class by denying working families help in providing health coverage for their kids. I did not vote for a bill that refuses to provide important basic worker protections in this country, protections like family and medical leave and protection against sexual harassment. I did not vote for a bill that hurts children's hospitals in my State. I did not vote for a bill that infringes on a woman's right to choose and I did not vote for a bill that does not promise to protect legal immigrants in this country.

Today's Republican bill violates the budget agreement that was so carefully put together and so hard that we worked on. And it shortchanges middle-class American families so that tomorrow's Republican tax cut bill will be able to provide the richest 5 percent of Americans in this country with the biggest tax cuts in the bill. It is wrong. Working families are scrambling every single day, every day to pay their bills, to be able to send their kids to school, to protect themselves for a secure retirement and be able to have affordable health care coverage. The bill that we will vote for today will deny those protections to people. We should vote against this rule and tomorrow we should vote against the Republican tax cut bill. I urge a "no" vote on the rule.

Mr. MOAKLEY. Mr. Speaker, I include the following information for the RECORD:

TEXT OF PREVIOUS QUESTION AMENDMENT TO H. RES. 174, FY 98 BUDGET RECONCILIATION AND TAX BILLS

At the end of the resolution add the following new section:

"Section 3. Notwithstanding any other provision of this resolution, it shall be in order without intervention of any point of order to consider the following amendments:

The amendment offered by Representative Ros-Lehtinen and Representative Meek or their designee.

The amendment offered by Representative Brown of Ohio or his designee.

The amendment offered by Representative Brown of Ohio or his designee.

The amendment offered by Representative Brown of Ohio or his designee.

The amendment offered by Representative Gekas and Representative Frost or their designee.

The amendment offered by Representative Barton and Representative Minge, or their designee.

The amendment offered by Representative Taylor of Mississippi or his designee.

The amendment offered by Representative Kennedy of Massachusetts or his designee.

The amendment offered by Representative McDermott and Representative Matsui or their designee.

The amendment offered by Representative McDermott or his designee.

The amendment offered by Representative Hinchey or his designee.

The amendment offered by Representative Peterson of Minnesota or his designee.

The amendment offered by Representative Nadler or his designee.

The amendment offered by Representative Nadler, Representative Maloney, and Representative Schumer or their designee.

The amendment offered by Representative Levin or his designee.

The amendment offered by Representative Levin or his designee.

The amendment offered by Representative Levin or his designee.

The amendment offered by Representative Conyers or his designee.

The amendment offered by Representative Conyers or his designee.

The amendment offered by Representative Roukema and Representative Pomeroy or their designee.

The amendment offered by Representative Pallone or his designee.

The amendment offered by Representative Davis and Representative Norton or their designee.

The amendment offered by Representative Berman or his designee.

The amendment offered by Representative Thurman or his designee.

The amendment offered by Representative Becerra or his designee.

The amendment offered by Representative Eshoo and Representative Pallone or their designee.

The amendment offered by Representative Bentsen or his designee.

AMENDMENTS TO H.R. 2014: BUDGET RECONCILIATION TAX ACT

AMENDMENT RELATING TO TAX RECONCILIATION PROVISIONS OFFERED BY MR. MCDERMOTT OF WASHINGTON

Add at the end of subtitle F of title IX the following new section:

SEC. 967. INCREASE OF STANDARD DEDUCTION FOR JOINT RETURNS TO END MARRIAGE PENALTY.

(a) IN GENERAL.—Paragraph (2) of section 63(c) (relating to basic standard deduction) is amended to read as follows:

"(2) BASIC STANDARD DEDUCTION.—For purposes of paragraph (1), the basic standard deduction is—

"(A) $8,500 in the case of—

"(i) a joint return, or

"(ii) a surviving spouse (as defined in section 2(a)),

"(B) $6,250 in the case of a head of household (as defined in section 2(b)),

"(C) $4,250 in the case of an individual who is not married and who is not a surviving spouse or head of household, or

"(D) $4,250 in the case of a married individual filing a separate return."

(b) PHASEIN OF INCREASE.—Section 63(c) is amended by adding at the end the following new paragraph:

"(7) 10-YEAR PHASEIN OF INCREASE IN STANDARD DEDUCTION FOR JOINT RETURNS.—

"(A) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1997 and before 2007, the basic standard deduction under paragraph (2)(A) (determined after the application of paragraph (4)) shall not exceed the sum of—

"(i) the base amount, and

"(ii) the applicable percentage of the excess of—

"(I) twice the amount in effect under paragraph (2)(C) (determined after the application of paragraph (4)), over

"(II) the base amount.

"(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the term 'applicable percentage' means the percentage determined under the following table:

"For taxable years beginning in calendar year—	The applicable percentage is—
1998	10
1999	20
2000	30
2001	40
2002	50
2003	60
2004	70
2005	80
2006	90."

"(C) BASE AMOUNT.—For purposes of this paragraph, the term 'base amount' means, for any taxable year, the amount which would apply for such year under paragraph (2)(A), as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1997 (determined after the application of paragraph (4), as so in effect).

"(D) STANDARD DEDUCTION FOR MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of any taxable year beginning in a calendar year after 1997 and before 2007, the basic standard deduction under paragraph (2)(D) (determined after the application of paragraph (4)) shall not exceed one-half of the amount in effect under paragraph (2)(A) for such taxable year (determined after the application of this paragraph and paragraph (4))."

(b) INFLATION ADJUSTMENT.—Paragraph (4) of section 63(c) is amended to read as follows:

"(4) ADJUSTMENTS FOR INFLATION.—

"(A) ADJUSTMENT OF BASIC STANDARD DEDUCTION.—In the case of any taxable year beginning in a calendar year after 1998, each dollar amount contained in paragraph (2) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) ADJUSTMENT OF OTHER AMOUNTS.—In the case of any taxable year beginning in a calendar year after 1988, each dollar amount contained in paragraph (5)(A) or subsection (f) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins by substituting 'calendar year 1987' for 'calendar year 1992' in subparagraph (B) thereof."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

Strike section 312, part II of subtitle B of title III, and sections 403 and 1102 of the bill.

AMENDMENT TO H.R. , AS REPORTED

OFFERED BY MR. HINCHEY OF NEW YORK

Strike section 403 (relating to repeal of adjustment for depreciation under alternative minimum tax).

Strike section 202(C) (relating to repeal of tax exemption for remitted tuition provided to children of university faculty and staff).

Strike section 1055 (relating to repeal of tax exemption for pensions provided by Teachers Insurance and Annuity Association College Retirement Equity Fund).

AMENDMENT TO THE RECONCILIATION PROVISIONS

REPORTED BY THE COMMITTEE ON WAYS AND MEANS

OFFERED BY MR. PETERSON OF MINNESOTA

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Revenue Reconciliation Act of 1997".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of 1986 Code.

TITLE I—REDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS

Sec. 101. Reduction in capital gains tax for noncorporate taxpayers.

Sec. 102. One-time exclusion of gain on sale of principal residence increased and allowable without regard to age of taxpayer.

TITLE II—INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDIT

Sec. 201. Increase in unified estate and gift tax credit.

Sec. 202. Family-owned business exclusion.

TITLE III—CHILD TAX CREDIT

Sec. 301. Child tax credit.

TITLE IV—INCENTIVES FOR HIGHER EDUCATION

Sec. 401. Credit for higher education expenses.

Sec. 402. Deduction for higher education expenses.

TITLE V—EXTENSION AND MODIFICATION OF AIRPORT AND AIRWAY TRUST FUND TAXES

Sec. 501. Extension and modification of Airport and Airway Trust Fund taxes.

TITLE VI—ENFORCING REVENUE TARGETS

Sec. 601. Estimates of necessity to suspend revenue reductions.

Sec. 602. Suspension of child tax credit and increases in unified estate and gift tax credit if revenue targets not met.

TITLE I—REDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS

SEC. 101. REDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by adding at the end thereof the following new section:

"SEC. 1203. REDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS.

"(a) IN GENERAL.—If a taxpayer other than a corporation has a net capital gain for any taxable year, there shall be allowed as a deduction an amount equal to the sum of—

"(1) 50 percent of the qualified 5-year capital gain,

"(2) 40 percent of the qualified 4-year capital gain,

"(3) 30 percent of the qualified 3-year capital gain,

"(4) 20 percent of the qualified 2-year capital gain, plus

"(5) 10 percent of the net capital gain, reduced by the sum of the amounts taken into account under the preceding paragraphs.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED 5-YEAR CAPITAL GAIN.—The term 'qualified 5-year capital gain' means the lesser of—

"(A) the amount of long-term capital gain which would be computed for the taxable

year if only gain from the sale or exchange of property held by the taxpayer for more than 5 years were taken into account, or

"(B) the net capital gain.

"(2) QUALIFIED 4-YEAR CAPITAL GAIN.—The term 'qualified 4-year capital gain' means the lesser of—

"(A) the amount of long-term capital gain which would be computed for the taxable year if only gain from the sale or exchange of property held by the taxpayer for more than 4 years but not more than 5 years were taken into account, or

"(B) the net capital gain reduced by the qualified 5-year capital gain.

"(3) QUALIFIED 3-YEAR CAPITAL GAIN.—The term 'qualified 3-year capital gain' means the lesser of—

"(A) the amount of long-term capital gain which would be computed for the taxable year if only gain from the sale or exchange of property held by the taxpayer for more than 3 years but not more than 4 years were taken into account, or

"(B) the net capital gain reduced by the qualified 5-year capital gain and the qualified 4-year gain.

"(4) QUALIFIED 2-YEAR CAPITAL GAIN.—The term 'qualified 2-year capital gain' means the lesser of—

"(A) the amount of long-term capital gain which would be computed for the taxable year if only gain from the sale or exchange of property held by the taxpayer for more than 2 years but not more than 3 years were taken into account, or

"(B) the net capital gain reduced by the qualified 5-year capital gain, the qualified 4-year capital gain, and the qualified 3-year capital gain.

"(c) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under this section shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.

"(d) SPECIAL RULES FOR COLLECTIBLES.—

"(1) IN GENERAL.—Solely for purposes of this section, 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.

"(2) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of paragraph (1), 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.

"(3) COLLECTIBLE.—For purposes of this subsection, the term 'collectible means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof).

"(e) TRANSITION RULES.—

"(1) GAIN MUST BE FOR PERIODS ON OR AFTER MAY 6, 1997.—Gain may be taken into account under subsection (a) only if such gain is properly taken into account on or after May 6, 1997.

"(2) SPECIAL RULE FOR PASS-THRU ENTITIES.—

"(A) IN GENERAL.—In applying this subsection with respect to any pass-thru entity, the determination of when gain is properly taken into account 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.

"(f) TREATMENT OF RECAPTURE OF NET ORDINARY LOSS UNDER SECTION 1231.—For purposes of this section, if any amount is treated as ordinary income under section 1231(c) for any taxable year—

"(1) the amount so treated shall be allocated proportionately among the section 1231 gains (as defined in section 1231(a)) for such taxable year, and

"(2) the amount so allocated to any such gain shall reduce the amount of such gain."

(b) TREATMENT OF CERTAIN PASS-THRU ENTITIES.—

(1) CAPITAL GAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.—

(A) Subparagraph (B) of section 852(b)(3) is amended to read as follows:

"(B) TREATMENT OF CAPITAL GAIN DIVIDENDS BY SHAREHOLDERS.—A capital gain dividend shall be treated by the shareholders as gain from the sale or exchange of a capital asset held for more than 1 year but not more than 2 years; except that—

"(i) the portion of any such dividend designated by the company as allocable to qualified 5-year capital gain of the company shall be treated as gain from the sale or exchange of a capital asset held for more than 5 years,

"(ii) the portion of any such dividend designated by the company as allocable to qualified 4-year capital gain of the company shall be treated as gain from the sale or exchange of a capital asset held for more than 4 years but not more than 5 years,

"(iii) the portion of any such dividend designated by the company as allocable to qualified 3-year capital gain of the company shall be treated as gain from the sale or exchange of a capital asset held for more than 3 years but not more than 4 years, and

"(iv) the portion of any such dividend designated by the company as allocable to qualified 2-year capital gain of the company shall be treated as gain from the sale or exchange of a capital asset held for more than 2 years but not more than 3 years.

Rules similar to the rules of subparagraph (C) shall apply to any designation under this subparagraph."

(B) Clause (i) of section 851(b)(3)(D) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of subparagraph (B) shall apply in determining character of the amount to be so included by any such shareholder."

(2) CAPITAL GAIN DIVIDENDS OF REAL ESTATE INVESTMENT TRUSTS.—Subparagraph (B) of section 857(b)(3) is amended to read as follows:

"(B) TREATMENT OF CAPITAL GAIN DIVIDENDS BY SHAREHOLDERS.—A capital gain dividend shall be treated by the shareholders or holders of beneficial interests as gain from the sale or exchange of a capital asset held for more than 1 year but not more than 2 years; except that—

"(i) the portion of any such dividend designated by the real estate investment trust as allocable to qualified 5-year capital gain of the trust shall be treated as gain from the sale or exchange of a capital asset held for more than 5 years,

"(ii) the portion of any such dividend designated by the trust as allocable to qualified 4-year capital gain of the trust shall be treated as gain from the sale or exchange of a capital asset held for more than 4 years but not more than 5 years,

"(iii) the portion of any such dividend designated by the trust as allocable to qualified 3-year capital gain of the trust shall be treated as gain from the sale or exchange of a capital asset held for more than 3 years but not more than 4 years, and

"(iv) the portion of any such dividend designated by the trust as allocable to qualified 2-year capital gain of the trust shall be treated as gain from the sale or exchange of a capital asset held for more than 2 years but not more than 3 years.

Rules similar to the rules of subparagraph (C) shall apply to any designation under this subparagraph."

(3) COMMON TRUST FUNDS.—Subsection (c) of section 584 is amended—

(A) by inserting "not more than 2 years" after "1 year" each place it appears in paragraph (2),

(B) by striking "and" at the end of paragraph (2), and

(C) by redesignating paragraph (3) as paragraph (7) and inserting after paragraph (2) the following new paragraphs:

"(3) as part of its gains and losses from sales or exchanges of capital assets held for more than 2 years but less than 3 years, its proportionate share of the gains and losses of the common trust fund from sales or exchanges of capital assets held for more than 2 years but not more than 3 years,

"(4) as part of its gains and losses from sales or exchanges of capital assets held for more than 3 years but less than 4 years, its proportionate share of the gains and losses of the common trust fund from sales or exchanges of capital assets held for more than 3 years but not more than 4 years,

"(5) as part of its gains and losses from sales or exchanges of capital assets held for more than 4 years but less than 5 years, its proportionate share of the gains and losses of the common trust fund from sales or exchanges of capital assets held for more than 4 years but not more than 5 years,

"(6) as part of its gains and losses from sales or exchanges of capital assets held for more than 5 years, its proportionate share of the gains and losses of the common trust fund from sales or exchanges of capital assets held for more than 5 years, and".

(c) REPEAL OF MAXIMUM RATE OF TAX ON CAPITAL GAINS.—Section 1 is amended by striking subsection (h).

(d) CONFORMING AMENDMENTS.—

(1) Section 62(a) is amended by inserting after paragraph (18) the following new paragraph:

"(19) CAPITAL GAINS DEDUCTION.—The deduction allowed by section 1203."

(2) Clause (ii) of section 163(d)(4)(B) is amended by inserting ", reduced by the amount of any deduction allowable under section 1203 attributable to gain from such property" after "investment".

(3) Section 170(e)(1)(B) is amended by inserting "(or, in the case of a taxpayer other than a corporation, the percentage of such gain equal to 100 percent minus the percentage applicable to of such gain under section 1203(a))" after "the amount of gain".

(4)(A) Section 172(d)(2) (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets; and

"(B) the deduction provided by section 1203 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting ", (2)(B)," after "paragraph (1)".

(5)(A) Section 221 (relating to cross reference) is amended to read as follows:

"SEC. 221. CROSS REFERENCES.

"(1) For deduction for net capital gains in the case of a taxpayer other than a corporation, see section 1203.

"(2) For deductions in respect of a decedent, see section 691."

(B) The table of sections for part VII of subchapter B of chapter 1 is amended by striking "reference" in the item relating to section 221 and inserting "references".

(6) 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, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1203 (relating to deduction for net capital gain). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(7) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: "The deduction under section 1203 (relating to deduction for net capital gain) shall not be taken into account."

(8) Paragraph (4) of section 691(c) is amended by striking "1201, and 1211" and inserting "1201, 1203, and 1211".

(9) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to section 1203 (relating to deduction for net capital gain) and" after "except that".

(10) Section 1402(i)(1) is amended to read as follows:

"(1) IN GENERAL.—In determining the net earnings from self-employment of any options dealer or commodities dealer—

"(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

"(B) the deduction provided by section 1203 shall not apply."

(11)(A) Subparagraph (A) of section 7518(g)(6) is amended by striking the last sentence and inserting the following: "With respect to any portion of any nonqualified withdrawal made out of the capital gain account during any taxable year, the rate of tax taken into account under the preceding sentence in the case of a taxpayer other than a corporation shall not exceed 19.8 percent (or, in the case of a corporation, 35 percent).".

(B) Subparagraph (A) of section 607(h)(6) of the Merchant Marine Act, 1936, is amended by striking the last sentence and inserting the following: "With respect to any portion of any nonqualified withdrawal made out of the capital gain account during any taxable year, the rate of tax taken into account under the preceding sentence in the case of a taxpayer other than a corporation shall not exceed 19.8 percent (or, in the case of a corporation, 35 percent)."

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1203. Reduction in capital gains tax for noncorporate taxpayers."

(f) EFFECTIVE DATES.—The amendments made by this section shall apply to taxable years ending after May 6, 1997.

SEC. 102. ONE-TIME EXCLUSION OF GAIN ON SALE OF PRINCIPAL RESIDENCE INCREASED AND ALLOWABLE WITHOUT REGARD TO AGE OF TAXPAYER.

(a) EXCLUSION ALLOWABLE WITHOUT REGARD TO AGE OF TAXPAYER.—The section heading and subsection (a) of section 121 are amended to read as follows:

"SEC. 121. ONE-TIME EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE BY INDIVIDUAL.

"(a) GENERAL RULE.—At the election of the taxpayer, gross income does not include gain from the sale or exchange of property if, during the 5-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence for periods aggregating 3 years or more."

(b) INCREASE IN LIMITATION.—

(1) IN GENERAL.—Paragraph (1) of section 121(b) is amended by striking "$125,000 ($62,500" and inserting "$250,000 ($125,000".

(2) ADDITIONAL ELECTION PERMITTED.—Paragraph (3) of section 121(b) is amended to read as follows:

"(3) ADDITIONAL ELECTION IF PRIOR SALE WAS MADE BEFORE JANUARY 1, 1998.—In the case of any sale or exchange on or after January 1, 1998, this section shall be applied by not taking into account any election made with respect to a sale or exchange before such date; except that the dollar limitation applicable under paragraph (1) shall be reduced by the aggregate amount excluded under this section on all prior sales and exchanges of the taxpayer."

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 121(d) is amended by striking "age, holding, and use" each place it appears and inserting "holding and use".

(2) Paragraphs (2), (3), and (9) of section 121(d) are each amended by striking "subsection (a)(2)" each place it appears and inserting "subsection (a)".

(3) Sections 1033(k)(3), 1034(l), 1038(e)(1)(A), 1250(d)(7)(B), and 6012(c) are each amended by striking "who has attained age 55".

(4) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 121 and inserting the following:

"Sec. 121. One-time exclusion of gain from sale of principal residence by individual."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after December 31, 1997.

TITLE II—INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDIT

SEC. 201. INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDIT.

(a) ESTATE TAX CREDIT.—

(1) Subsection (a) of section 2010 (relating to unified credit against estate tax) is amended by striking "$192,800" and inserting "the applicable credit amount".

(2) Section 2010 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) APPLICABLE CREDIT AMOUNT.—For purposes of this section, the applicable credit amount is the amount of the tentative tax which would be determined under the rate schedule set forth in section 2001(c) if the amount with respect to which such tentative tax is to be computed were the applicable exclusion amount determined in accordance with the following table:

"In the case of estates of decedents dying, and gifts made, during:	The applicable exclusion amount is:
1998	$ 700,000
1999	$ 800,000
2000	$ 850,000
2001	$ 900,000
2002	$1,000,000
2003	$1,100,000
2004 or thereafter	$1,200,000."

(b) UNIFIED GIFT TAX CREDIT.—Paragraph (1) of section 2505(a) is amended by striking "$192,800" and inserting "the applicable credit amount under section 2010(c)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 1997.

SEC. 202. FAMILY-OWNED BUSINESS EXCLUSION.

(a) IN GENERAL.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2033 the following new section:

"SEC. 2033A. FAMILY-OWNED BUSINESS EXCLUSION.

"(a) IN GENERAL.—In the case of an estate of a decedent to which this section applies, the value of the gross estate shall not include the lesser of—

"(1) the adjusted value of the qualified family-owned business interests of the decedent otherwise includible in the estate, or

"(2) $1,000,000.

"(b) ESTATES TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—This section shall apply to an estate if—

"(A) the decedent was (at the date of the decedent's death) a citizen or resident of the United States,

"(B) the sum of—

"(i) the adjusted value of the qualified family-owned business interests described in paragraph (2), plus

"(ii) the amount of the gifts of such interests determined under paragraph (3),

exceeds 50 percent of the adjusted gross estate, and

"(C) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which—

"(i) such interests were owned by the decedent or a member of the decedent's family, and

"(ii) there was material participation (within the meaning of section 2032A(e)(6)) by the decedent or a member of the decedent's family in the operation of the business to which such interests relate.

"(2) INCLUDIBLE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—The qualified family-owned business interests described in this paragraph are the interests which—

"(A) are included in determining the value of the gross estate (without regard to this section), and

"(B) are acquired by any qualified heir from, or passed to any qualified heir from, the decedent (within the meaning of section 2032A(e)(9)).

"(3) INCLUDIBLE GIFTS OF INTERESTS.—The amount of the gifts of qualified family-

owned business interests determined under this paragraph is the excess of—

"(A) the sum of—

"(i) the amount of such gifts from the decedent to members of the decedent's family taken into account under subsection 2001(b)(1)(B), plus

"(ii) the amount of such gifts otherwise excluded under section 2503(b),

to the extent such interests are continuously held by members of such family (other than the decedent's spouse) between the date of the gift and the date of the decedent's death, over

"(B) the amount of such gifts from the decedent to members of the decedent's family otherwise included in the gross estate.

"(c) ADJUSTED GROSS ESTATE.—For purposes of this section, the term 'adjusted gross estate' means the value of the gross estate (determined without regard to this section)—

"(1) reduced by any amount deductible under paragraph (3) or (4) of section 2053(a), and

"(2) increased by the excess of—

"(A) the sum of—

"(i) the amount of gifts determined under subsection (b)(3), plus

"(ii) the amount (if more than de minimis) of other transfers from the decedent to the decedent's spouse (at the time of the transfer) within 10 years of the date of the decedent's death, plus

"(iii) the amount of other gifts (not included under clause (i) or (ii)) from the decedent within 3 years of such date, other than gifts to members of the decedent's family otherwise excluded under section 2503(b), over

"(B) the sum of the amounts described in clauses (i), (ii), and (iii) of subparagraph (A) which are otherwise includible in the gross estate.

For purposes of the preceding sentence, the Secretary may provide that de minimis gifts to persons other than members of the decedent's family shall not be taken into account.

"(d) ADJUSTED VALUE OF THE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—For purposes of this section, the adjusted value of any qualified family-owned business interest is the value of such interest for purposes of this chapter (determined without regard to this section), reduced by the excess of—

"(1) any amount deductible under paragraph (3) or (4) of section 2053(a), over

"(2) the sum of—

"(A) any indebtedness on any qualified residence of the decedent the interest on which is deductible under section 163(h)(3), plus

"(B) any indebtedness to the extent the taxpayer establishes that the proceeds of such indebtedness were used for the payment of educational and medical expenses of the decedent, the decedent's spouse, or the decedent's dependents (within the meaning of section 152), plus

"(C) any indebtedness not described in clause (i) or (ii), to the extent such indebtedness does not exceed $10,000.

"(e) QUALIFIED FAMILY-OWNED BUSINESS INTEREST.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified family-owned business interest' means—

"(A) an interest as a proprietor in a trade or business carried on as a proprietorship, or

"(B) an interest in an entity carrying on a trade or business, if—

"(i) at least—

"(I) 50 percent of such entity is owned (directly or indirectly) by the decedent and members of the decedent's family,

"(II) 70 percent of such entity is so owned by members of 2 families, or

"(III) 90 percent of such entity is so owned by members of 3 families, and

"(ii) for purposes of subclause (II) or (III) of clause (i), at least 30 percent of such entity is so owned by the decedent and members of the decedent's family.

"(2) LIMITATION.—Such term shall not include—

"(A) any interest in a trade or business the principal place of business of which is not located in the United States,

"(B) any interest in an entity, if the stock or debt of such entity or a controlled group (as defined in section 267(f)(1)) of which such entity was a member was readily tradable on an established securities market or secondary market (as defined by the Secretary) at any time within 3 years of the date of the decedent's death,

"(C) any interest in a trade or business not described in section 542(c)(2), if more than 35 percent of the adjusted ordinary gross income of such trade or business for the taxable year which includes the date of the decedent's death would qualify as personal holding company income (as defined in section 543(a)),

"(D) that portion of an interest in a trade or business that is attributable to—

"(i) cash or marketable securities, or both, in excess of the reasonably expected day-to-day working capital needs of such trade or business, and

"(ii) any other assets of the trade or business (other than assets used in the active conduct of a trade or business described in section 542(c)(2)), the income of which is described in section 543(a) or in subparagraph (B), (C), (D), or (E) of section 954(c)(1) (determined by substituting 'trade or business' for 'controlled foreign corporation').

"(3) RULES REGARDING OWNERSHIP.—

"(A) OWNERSHIP OF ENTITIES.—For purposes of paragraph (1)(B)—

"(i) CORPORATIONS.—Ownership of a corporation shall be determined by the holding of stock possessing the appropriate percentage of the total combined voting power of all classes of stock entitled to vote and the appropriate percentage of the total value of shares of all classes of stock.

"(ii) PARTNERSHIPS.—Ownership of a partnership shall be determined by the owning of the appropriate percentage of the capital interest in such partnership.

"(B) OWNERSHIP OF TIERED ENTITIES.—For purposes of this section, if by reason of holding an interest in a trade or business, a decedent, any member of the decedent's family, any qualified heir, or any member of any qualified heir's family is treated as holding an interest in any other trade or business—

"(i) such ownership interest in the other trade or business shall be disregarded in determining if the ownership interest in the first trade or business is a qualified family-owned business interest, and

"(ii) this section shall be applied separately in determining if such interest in any other trade or business is a qualified family-owned business interest.

"(C) INDIVIDUAL OWNERSHIP RULES.—For purposes of this section, an interest owned, directly or indirectly, by or for an entity described in paragraph (1)(B) shall be considered as being owned proportionately by or for the entity's shareholders, partners, or beneficiaries. A person shall be treated as a beneficiary of any trust only if such person has a present interest in such trust.

"(f) TAX TREATMENT OF FAILURE TO MATERIALLY PARTICIPATE IN BUSINESS OR DISPOSITIONS OF INTERESTS.—

"(1) IN GENERAL.—There is imposed an additional estate tax if, within 10 years after the date of the decedent's death and before the date of the qualified heir's death—

"(A) the material participation requirements described in section 2032A(c)(6)(B) are not met with respect to the qualified family-owned business interest which was acquired (or passed) from the decedent,

"(B) the qualified heir disposes of any portion of a qualified family-owned business interest (other than by a disposition to a member of the qualified heir's family or through a qualified conservation contribution under section 170(h)),

"(C) the qualified heir loses United States citizenship (within the meaning of section 877) or with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) occurs, and such heir does not comply with the requirements of subsection (g), or

"(D) the principal place of business of a trade or business of the qualified family-owned business interest ceases to be located in the United States.

"(2) ADDITIONAL ESTATE TAX.—

"(A) IN GENERAL.—The amount of the additional estate tax imposed by paragraph (1) shall be equal to—

"(i) the applicable percentage of the adjusted tax difference attributable to the qualified family-owned business interest (as determined under rules similar to the rules of section 2032A(c)(2)(B)), plus

"(ii) interest on the amount determined under clause (i) at the underpayment rate established under section 6621 for the period beginning on the date the estate tax liability was due under this chapter and ending on the date such additional estate tax is due.

"(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage shall be determined under the following table:

"If the event described in paragraph (1) occurs in the following year of material participation	The applicable percentage is:
1 through 6	100
7	80
8	60
9	40
10	20.

"(g) SECURITY REQUIREMENTS FOR NONCITIZEN QUALIFIED HEIRS.—

"(1) IN GENERAL.—Except upon the application of subparagraph (F) or (M) of subsection (h)(3), if a qualified heir is not a citizen of the United States, any interest under this section passing to or acquired by such heir (including any interest held by such heir at a time described in subsection (f)(1)(C)) shall be treated as a qualified family-owned business interest only if the interest passes or is acquired (or is held) in a qualified trust.

"(2) QUALIFIED TRUST.—The term 'qualified trust' means a trust—

"(A) which is organized under, and governed by, the laws of the United States or a State, and

"(B) except as otherwise provided in regulations, with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

"(h) OTHER DEFINITIONS AND APPLICABLE RULES.—For purposes of this section—

"(1) QUALIFIED HEIR.—The term 'qualified heir'—

"(A) has the meaning given to such term by section 2032A(e)(1), and

"(B) includes any active employee of the trade or business to which the qualified family-owned business interest relates if such employee has been employed by such trade or business for a period of at least 10 years before the date of the decedent's death.

"(2) MEMBER OF THE FAMILY.—The term 'member of the family' has the meaning given to such term by section 2032A(e)(2).

"(3) APPLICABLE RULES.—Rules similar to the following rules shall apply:

"(A) Section 2032A(b)(4) (relating to decedents who are retired or disabled).

"(B) Section 2032A(b)(5) (relating to special rules for surviving spouses).

"(C) Section 2032A(c)(2)(D) (relating to partial dispositions).

"(D) Section 2032A(c)(3) (relating to only 1 additional tax imposed with respect to any 1 portion).

"(E) Section 2032A(c)(4) (relating to due date).

"(F) Section 2032A(c)(5) (relating to liability for tax; furnishing of bond).

"(G) Section 2032A(c)(7) (relating to no tax if use begins within 2 years; active management by eligible qualified heir treated as material participation).

"(H) Section 2032A(e)(10) (relating to community property).

"(I) Section 2032A(e)(14) (relating to treatment of replacement property acquired in section 1031 or 1033 transactions).

"(J) Section 2032A(f) (relating to statute of limitations).

"(K) Section 6166(b)(3) (relating to farmhouses and certain other structures taken into account).

"(L) Subparagraphs (B), (C), and (D) of section 6166(g)(1) (relating to acceleration of payment).

"(M) Section 6324B (relating to special lien for additional estate tax).

"(4) COORDINATION WITH OTHER ESTATE TAX BENEFITS.—If there is a reduction in the value of the gross estate under this section—

"(A) the dollar limitation applicable under section 2032A(a)(2), and

"(B) the $1,000,000 amount under section 6601(j)(3) (as adjusted),

shall each be reduced (but not below zero) by the amount of such reduction.".

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by inserting after the item relating to section 2033 the following new item:

"Sec. 2033A. Family-owned business exclusion.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1997.

TITLE III—CHILD TAX CREDIT

SEC. 301. CHILD TAX CREDIT.

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

"SEC. 24. CHILD TAX CREDIT.

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

'SEC. 24. CHILD TAX CREDIT.

'(a) ALLOWANCE OF CREDIT.—

'(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to $500 multiplied by the number of eligible children of the taxpayer for the taxable year.

'(2) PHASE-IN OF CREDIT.—In the case of taxable years beginning after December 31, 1996, and before January 1, 2000, paragraph (1) shall be applied by substituting '$300' for '$500'.

'(b) PHASEOUT OF CREDIT.—

'(1) IN GENERAL.—The amount of the credit allowed under subsection (a) shall be reduced (but not below zero) by the amount determined under paragraph (2).

'(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph equals the amount which bears the same ratio to the credit (determined without regard to this subsection) as—

'(A) the excess of—

'(i) the taxpayer's adjusted gross income for such taxable year, over

'(ii) $60,000, bears to

'(B) $15,000.

Any amount determined under this paragraph which is not a multiple of $10 shall be rounded to the next lowest $10.

'(3) ADJUSTED GROSS INCOME.—For purposes of this subsection, adjusted gross income of any taxpayer shall be increased by any amount excluded from gross income under section 911, 931, or 933.

'(c) ELIGIBLE CHILD.—For purposes of this section, the term 'eligible child' means any child (as defined in section 151(c)(3)) of the taxpayer—

'(1) who has not attained age 13 as of the close of the calendar year in which the taxable year of the taxpayer begins,

'(2) who is a dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151 for such taxable year, and

'(3) whose TIN is included on the taxpayer's return for such taxable year.

'(d) SPECIAL RULES.—

'(1) AMOUNT OF CREDIT MAY BE DETERMINED UNDER TABLES.—The amount of the credit allowed by this section may be determined under tables prescribed by the Secretary.

'(2) CERTAIN OTHER RULES APPLY.—Rules similar to the rules of subsections (c)(1)(E) and (F), (d), and (e) of section 32 shall apply for purposes of this section.'"

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. Families with young children."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

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

"Sec. 24. Child tax credit."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

TITLE IV—INCENTIVES FOR HIGHER EDUCATION

SEC. 401. CREDIT FOR HIGHER EDUCATION EXPENSES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 24 the following new section:

"SEC. 24. HIGHER EDUCATION TUITION AND FEES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the amount of qualified higher education expenses paid by the taxpayer during such taxable year for education furnished during any academic period beginning in such year.

"(b) LIMITATIONS.—The amount allowed as a credit under subsection (a) for any taxable year with respect to the qualified higher education expenses of any 1 individual shall not exceed $1,500.

"(2) CREDIT ALLOWED ONLY FOR 2 TAXABLE YEARS.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified higher education expenses of an individual unless the taxpayer elects to have this section apply with respect to such individual for such year. An election under this paragraph shall not take effect with respect to an individual for any taxable year if an election under this paragraph (by the taxpayer or any other individual) is in effect with respect to such individual for any 2 prior taxable years.

"(3) CREDIT ALLOWED FOR YEAR ONLY IF INDIVIDUAL IS AT LEAST ½ TIME STUDENT FOR PORTION OF YEAR.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified higher education expenses of an individual unless such individual is an eligible student for at least one academic period which begins during such year.

"(4) CREDIT ALLOWED ONLY FOR FIRST TWO YEARS OF POSTSECONDARY EDUCATION.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified higher education expenses of an individual if the individual has completed (before the beginning of such taxable year) the first 2 years of postsecondary education at an institution of higher education.

"(c) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(1) IN GENERAL.—The amount which would (but for this subsection) be taken into account under subsection (a) for the taxable year shall be reduced (but not below zero) by the amount determined under paragraph (2).

"(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph is the amount which bears the same ratio to the amount which would be so taken into account as—

"(A) the excess of—

"(i) the taxpayer's modified adjusted gross income for such taxable year, over

"(ii) $50,000 ($80,000 in the case of a joint return), bears to

"(B) $20,000.

"(3) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year—

"(A) determined without regard to section 221, and

"(B) increased by any amount excluded from gross income under section 911, 931, or 933.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED HIGHER EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition and fees required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151,

at an institution of higher education.

"(B) EXCEPTION FOR EDUCATION INVOLVING SPORTS, ETC.—Such term does not include expenses with respect to any course or other education involving sports, games, or hobbies, unless such course or other education is part of the individual's degree program.

"(C) EXCEPTION FOR NONACADEMIC FEES.—Such term does not include student activity fees, athletic fees, insurance expenses, or other expenses unrelated to an individual's academic course of instruction.

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an institution—

"(A) which is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section, and

"(B) which is eligible to participate in a program under title IV of such Act.

"(3) ELIGIBLE STUDENT.—The term 'eligible student' means, with respect to any academic period, a student who—

"(A) meets the requirements of section 484(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1)), as in effect on the date of the enactment of this section, and

"(B) is carrying at least ½ the normal full-time work load for the course of study the student is pursuing.

"(4) OTHER TERMS RELATING TO THE HIGHER EDUCATION ACT.—The following terms shall have the meanings prescribed in regulations under section 481(g) of the Higher Education Act of 1965 (20 U.S.C. 1088(g)), as added by the Student Financial Aid Improvements Act of 1997:

"(A) Academic period.

"(B) Normal full-time workload.

"(C) First two years of postsecondary education.

"(D) Job skills and new job skills.

"(e) TREATMENT OF EXPENSES PAID BY DEPENDENT.—If a deduction under section 151 with respect to an individual is allowed to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins—

"(1) no credit shall be allowed under subsection (a) to such individual for such individual's taxable year, and

"(2) qualified higher education expenses paid by such individual during such individual's taxable year shall be treated for purposes of this section as paid by such other taxpayer.

"(f) TREATMENT OF CERTAIN PREPAYMENTS.—If qualified higher education expenses are paid by the taxpayer during a taxable year for an academic period which begins during the first 3 months following such taxable year, such academic period shall be treated for purposes of this section as beginning during such taxable year.

"(g) SPECIAL RULES.—

"(1) DENIAL OF CREDIT IF INDIVIDUAL CONVICTED OF DRUG OFFENSE.—No credit shall be allowed under subsection (a) with respect to the qualified higher education expenses of an individual for any taxable year if the individual has been convicted before the end of such year of a Federal or State felony offense consisting of the possession or distribution of a controlled substance.

"(2) NO DOUBLE BENEFIT.—No credit shall be allowed under subsection (a) for any taxable year for any expense—

"(A) with respect to an individual if a deduction is allowed under section 221 for the taxable year for any expense with respect to such individual, or

"(B) for which a deduction is allowed under any other provision of this chapter.

"(3) IDENTIFICATION REQUIREMENT.—No credit shall be allowed under subsection (a) to a taxpayer with respect to the qualified higher education expenses of an individual unless the taxpayer includes the name and taxpayer identification number of such individual on the return of tax for the taxable year.

"(4) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS.—The amount of qualified higher education expenses otherwise taken into account under subsection (a) with respect to an individual for an academic period shall be reduced (before the application of subsections (b) and (c)) by the sum of—

"(A) any amounts paid for the benefit of such individual which are allocable to such period as—

"(i) a qualified scholarship which is excludable from gross income under section 117,

"(ii) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or under chapter 1606 of title 10, United States Code,

"(iii) a payment which is excludable from gross income under section 127, or

"(iv) a payment (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for such individual's educational expenses, or attributable to such individual's enrollment at an institution of higher education, which is excludable from gross income under any law of the United States, and

"(B) the amount excludable from gross income under section 135 which is allocable to such expenses with respect to such individual for such period.

"(5) NO CREDIT FOR MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

"(6) NONRESIDENT ALIENS.—If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall apply only if such individual is treated as a resident alien of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.

"(h) INFLATION ADJUSTMENTS.—

"(1) DOLLAR LIMITATION ON AMOUNT OF CREDIT.—

"(A) IN GENERAL.—In the case of a taxable year beginning after 1997, the $1,500 amount in subsection (b)(1) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1996' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

"(2) INCOME LIMITS.—

"(A) IN GENERAL.—In the case of a taxable year beginning after 2000, the $50,000 and $80,000 amounts in subsection (c)(2), section 221(b)(2)(B)(i)(II), and section 222(b)(2)(A) shall each be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $5,000, such amount shall be rounded to the next lowest multiple of $5,000.

"(i) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations providing for a recapture of credit allowed under this section in cases where there is a refund in a subsequent taxable year of any amount which was taken into account in determining the amount of such credit."

(b) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Paragraph (2) of section 6213(g) (relating to the definition of mathematical or clerical errors) is amended by striking "and" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ", and", and by inserting after subparagraph (H) the following new subparagraph:

"(I) an omission of a correct TIN required under section 24(g)(3) or under section 221(d)(2)(A) (relating to higher education tuition and fees) to be included on a return."

(c) RETURNS RELATING TO HIGHER EDUCATION EXPENSES.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6050R the following new section:

"SEC. 6050S. RETURNS RELATING TO HIGHER EDUCATION EXPENSES.

"(a) IN GENERAL.—Any person—

"(1) which is an institution of higher education which receives payments for qualified higher education expenses with respect to any individual for any calendar year, or

"(2) which is engaged in a trade or business which, in the course of such trade or business makes payments during any calendar year to any individual which constitute reimbursements or refunds (or similar amounts) of qualified higher education expenses of such individual,

shall make the return described in subsection (b) with respect to the individual at such time as the Secretary may by regulations prescribe.

"(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

"(1) is in such form as the Secretary may prescribe,

"(2) contains—

"(A) the name, address, and TIN of the individual with respect to whom payments described in subsection (a) were received from (or were paid to),

"(B) the name, address, and TIN of any individual certified by the individual described in subparagraph (A) as the taxpayer who will claim the individual as a dependent for purposes of the deduction allowable under section 151 for any taxable year ending with or within the calendar year,

"(C) the—

"(i) aggregate amount of payments for qualified higher education expenses received with respect to the individual described in subparagraph (A) during the calendar year, and

"(ii) aggregate amount of reimbursements or refunds (or similar amounts) paid to such individual during the calendar year, and

"(D) such other information as the Secretary may prescribe.

"(c) APPLICATION TO GOVERNMENTAL UNITS.—For purposes of this section—

"(1) a governmental unit or any agency or instrumentality thereof shall be treated as a person, and

"(2) any return required under subsection (a) by such governmental entity shall be

made by the officer or employee appropriately designated for the purpose of making such return.

"(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return under subparagraph (A) or (B) of subsection (b)(2) a written statement showing—

"(1) the name, address, and phone number of the information contact of the person required to make such return, and

"(2) the aggregate amounts described in subparagraphs (C) and (D) of subsection (b)(2).

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(e) DEFINITIONS.—For purposes of this section, the terms 'institution of higher education' and 'qualified higher education expenses' have the meanings given such terms by section 24.

"(f) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section. No penalties shall be imposed under section 6724 with respect to any return or statement required under this section until such time as such regulations are issued."

(2) ASSESSABLE PENALTIES.—Section 6724(d) (relating to definitions) is amended—

(A) by redesignating clauses (x) through (xv) as clauses (xi) through (xvi), respectively, in paragraph (1)(B) and by inserting after clause (ix) of such paragraph the following new clause:

"(x) section 6050S (relating to returns relating to payments for qualified higher education expenses),", and

(B) by striking "or" at the end of the next to last subparagraph, by striking the period at the end of the last subparagraph and inserting ", or", and by adding at the end the following new subparagraph:

"(Z) section 6050S(d) (relating to returns relating to qualified higher education expenses)."

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050R the following new item:

"Sec. 6050S. Returns relating to higher education expenses."

(d) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 24 the following new item:

"Sec. 24. Higher education tuition and fees."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid after December 31, 1997 (in taxable years ending after such date).

SEC. 402. DEDUCTION FOR HIGHER EDUCATION EXPENSES.

(a) DEDUCTION ALLOWED.— Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

"SEC. 221. HIGHER EDUCATION TUITION AND FEES.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction the amount of qualified higher education expenses paid by the taxpayer during the taxable year for education furnished to the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151, as an eligible student at an institution of higher education during any academic period beginning in such year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—

"(A) IN GENERAL.—The amount allowed as a deduction under subsection (a) for any taxable year shall not exceed $10,000.

"(B) PHASE-IN.—In the case of taxable years beginning in 1997 or 1998, subparagraph (A) shall be applied by substituting '$5,000' for '$10,000'.

"(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—The amount which would (but for this paragraph) be allowed as a deduction under subsection (a) shall be reduced (but not below zero) by the amount determined under subparagraph (B).

"(B) AMOUNT OF REDUCTION.—The amount determined under this subparagraph equals the amount which bears the same ratio to the deduction (determined without regard to this paragraph) as—

"(i) the excess of—

"(I) the taxpayer's modified adjusted gross income for the taxable year, over

"(II) $50,000 ($80,000 in the case of a joint return), bears to

"(ii) $20,000.

"(C) MODIFIED ADJUSTED GROSS INCOME.—For purposes of subparagraph (B), the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year determined—

"(i) without regard to this section and sections 911, 931, and 933, and

"(ii) after the application of sections 86, 135, 219, and 469.

For purposes of sections 86, 135, 219, and 469, adjusted gross income shall be determined without regard to the deduction allowed under this section.

"(D) CROSS REFERENCE.—

"For inflation adjustment of $50,000 and $80,000 amounts, see section 24(h).

"(c) DEFINITIONS.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), terms used in this section which are also used in section 24 have the respective meanings given such terms in section 24.

"(2) DEDUCTION AVAILABLE FOR EDUCATION TO ACQUIRE OR IMPROVE JOB SKILLS.—For purposes of applying this section, the requirement of section 24(d)(3) shall be treated as met if—

"(A) the individual is enrolled in a course which enables the individual to improve the individual's job skills or to acquire new job skills, and

"(B) the individual is not enrolled in an elementary or secondary school.

"(d) SPECIAL RULES.—

"(1) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under subsection (a) for any expense for which a deduction is allowed to the taxpayer under any other provision of this chapter.

"(2) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (e) and (f) of section 24, and the following rules of section 24(g), shall apply for purposes of this section:

"(A) Paragraph (3) (relating to identification requirement).

"(B) Paragraph (4) (relating to adjustment for certain scholarships).

"(C) Paragraph (5) (relating to no benefit for married individuals filing separate returns).

"(D) Paragraph (6) (relating to nonresident aliens).

"(3) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section."

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62(a) is amended by inserting after paragraph (16) the following new paragraph:

"(17) HIGHER EDUCATION TUITION AND FEES.—The deduction allowed by section 221."

(c) CONFORMING AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the item relating to section 221 and inserting:

"Sec. 221. Higher education tuition and fees.

"Sec. 222. Cross reference."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid after December 31, 1997.

TITLE V—EXTENSION AND MODIFICATION OF AIRPORT AND AIRWAY TRUST FUND TAXES

SEC. 501. EXTENSION AND MODIFICATION OF AIRPORT AND AIRWAY TRUST FUND TAXES.

(a) FUEL TAXES.—

(1) AVIATION FUEL.—Paragraph (3) of section 4091(b) is amended by striking subparagraph (A).

(2) AVIATION GASOLINE.—Subsection (d) of section 4081 is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(3) NONCOMMERCIAL AVIATION.—Subsection (c) of section 4041 is amended by striking paragraph (3).

(b) TICKET TAXES.—

(1) PERSONS.—Section 4261 is amended by striking subsection (g).

(2) PROPERTY.—Section 4271 is amended by striking subsection (d).

(c) MODIFICATIONS.—

(1) USE OF INTERNATIONAL TRAVEL FACILITIES.—Subsection (c) of section 4261 is amended to read as follows:

"(c) USE OF INTERNATIONAL TRAVEL FACILITIES.—

"(1) IN GENERAL.—There is hereby imposed a tax of $8 on any amount paid (whether within or without the United States) for any transportation of any person by air, if such transportation begins or ends in the United States.

"(2) EXCEPTION FOR TRANSPORTATION ENTIRELY TAXABLE UNDER SUBSECTION (a).—This subsection shall not apply to any transportation all of which is taxable under subsection (a) (determined without regard to sections 4281 and 4282).

"(3) SPECIAL RULE FOR ALASKA AND HAWAII.—In any case in which the tax imposed by paragraph (1) applies to a segment between the continental United States and Alaska or Hawaii or between Alaska and Hawaii, such tax shall apply only to departures and shall be at the rate of $6."

(2) SPECIAL RULES.—Section 4261 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by

inserting after subsection (d) the following new subsection:

"(e) APPLICATION OF SUBSECTION (a) TO DOMESTIC SEGMENTS OF INTERNATIONAL TRANSPORTATION.—

"(1) IN GENERAL.—In the case of taxable transportation described in section 4262(a)(2), the tax imposed by subsection (a) shall be applied by taking into account only an amount which bears the same ratio to the amount paid for such transportation as the number of specified miles in the domestic segments of such transportation bears to the total number of specified miles in such transportation.

"(2) SPECIFIED MILES.—For purposes of paragraph (1), the term 'specified miles' means the great circle miles (as specified by the Secretary) between the 2 points of each segment. The Secretary may specify mileage which shall apply in lieu of the mileage determined under the preceding sentence with respect to any 2 points if the Secretary determines that the mileage on the route customarily traveled by air between such points is different from the mileage determined under the preceding sentence.

"(3) DOMESTIC SEGMENT.—For purposes of this section, the term 'domestic segment' means any segment which is taxable transportation described in section 4262(a)(1)."

(3) CONFORMING AMENDMENTS.—

(A) Paragraph (2) of section 4262(a) is amended by striking "United States, but" and all that follows and inserting "United States.".

(B) Subsection (c) of section 4262 is amended by striking paragraph (3).

(d) EFFECTIVE DATES.—

(1) FUEL TAXES.—The amendments made by subsection (a) shall apply take effect on October 1, 1997.

(2) TICKET TAXES.—

(A) IN GENERAL.—The amendments made by subsections (b) and (c) shall apply to transportation beginning on or after October 1, 1997.

(B) TREATMENT OF AMOUNTS PAID FOR TICKETS PURCHASED BEFORE DATE OF ENACTMENT.—The amendments made by subsection (c) shall not apply to amounts paid for a ticket purchased before the date of the enactment of this Act for a specified flight beginning on or after October 1, 1997.

TITLE VI—ENFORCING REVENUE TARGETS

SEC. 601. ESTIMATES OF NECESSITY TO SUSPEND REVENUE REDUCTIONS.

(a) ESTIMATE OF NECESSITY TO SUSPEND NEW REVENUE REDUCTIONS.—The Director of the Office of Management and Budget shall issue a report to the President and the Congress on December 15 of any calendar year in which such statement identifies actual or projected revenues in the current or immediately preceding fiscal years lower than the applicable total revenue target in subsection (b) by more than 1 percent of the applicable total revenue target for such year. The report shall include—

(1) all existing laws and policies enacted as part of any reconciliation legislation in calendar 1997 which would cause revenues to decline in the calendar year which begins January 1, compared to laws and policies in effect on December 15;

(2) the amounts by which revenues would be reduced by implementation of the provisions of law described in paragraph (1) compared to provisions of law in effect on December 15; and

(3) whether delaying implementation of the provisions of law described in paragraph (1) would cause the total for revenues in the projected revenues in the current fiscal year and actual revenues in the immediately preceding fiscal year to equal or exceed the total of the targets for the applicable years.

(b) TOTAL REVENUE TARGETS.—For purposes of subsection (a), the total revenue targets shall be—

(1) for fiscal year 1998, $1,601,800,000,000;

(2) for fiscal year 1999, $1,664,200,000,000;

(3) for fiscal year 2000, $1,728,100,000,000;

(4) for fiscal year 2001, $1,805,100,000,000; and

(5) for fiscal year 2002, $1,890,400,000,000.

SEC. 602. SUSPENSION OF CHILD TAX CREDIT AND INCREASES IN UNIFIED ESTATE AND GIFT TAX CREDIT IF REVENUE TARGETS NOT MET.

(a) CHILD CARE CREDIT.—Section 24 of the Internal Revenue Code of 1986 (relating to child tax credit), as added by this Act, shall not apply to taxable years beginning in a tax benefit suspension year.

(b) UNIFIED ESTATE AND GIFT TAX CREDIT.—If, under section 2010 of the Internal Revenue Code of 1986, as amended by this Act, there is an increase in the credit which would (but for this section) take effect with respect to any tax benefit suspension year, then—

(1) any increase in such credit with respect to such year and each subsequent calendar year shall be delayed 1 calendar year, and

(2) the level of credit under such section with respect to the prior calendar year shall apply to the calendar year.

(c) TAX BENEFIT SUSPENSION YEAR.—For purposes of this section, the term "tax benefit suspension year" means any calendar year if the statement issued under section 601 during the preceding calendar year indicates that—

(1) for the fiscal year ending in such preceding calendar year, actual revenues were lower than the applicable total revenue target in section 601(b) for such fiscal year by more than 1 percent of such target, or

(2) for the fiscal year beginning in such preceding calendar year, projected revenues (determined without regard to this section) are estimated to be lower than the applicable total revenue target in section 601(b) for such fiscal year by more than 1 percent of such target.

(d) PERCENTAGE SUSPENSION WHERE FULL SUSPENSION UNNECESSARY TO ACHIEVE REVENUE TARGET.—If the application of subsections (a) and (b) to any tax benefit suspension year would (but for this subsection) result in revenues above the applicable revenue target described in section 601(b), such subsections shall be applied such that the amount of each benefit which is denied is only the percentage of such benefit which is necessary to result in revenues equal to such target. Such percentage shall be determined by the Director of the Office of Management and Budget, and the same percentage shall apply to such benefits.

AMENDMENTS TO H.R. 2015: BUDGET RECONCILIATION SPENDING ACT

AMENDMENT TO THE RECONCILIATION BILL, AS APPROVED BY THE COMMITTEE ON WAYS AND MEANS ON JUNE 10, 1997, OFFERED BY MRS. MEEK AND MS. ROS-LEHTINEN

In section 9302 strike subsection (a) and insert the following:

(a) IN GENERAL.—Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 8 U.S.C. 1612(A)(2)) is amended by adding after subparagraph (D) the following new subparagraph:

"(E) QUALIFIED ALIEN ON AUGUST 22, 1996.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1) shall not apply to an alien who on August 22, 1996, was a qualified alien.".

AMENDMENT TO H.R. — (RECONCILIATION) OFFERED BY MRS. MEEK OF FLORIDA

At the end of section 9103(a), add the following:

(3) ADDITIONAL MANDATORY STATE PAYMENTS.—

(A) DUTIES OF THE SOCIAL SECURITY ADMINISTRATION.—For each of fiscal years 1998 through 2002, the Commissioner of Social Security shall—

(i) estimate the difference between—

(I) the total cost to the Federal Government of providing to qualified aliens (as defined in section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) supplemental security income benefits under title XVI of the Social Security Act and medical assistance benefits under title XIX of such Act; and

(II) $2,300,000,000 for fiscal year 1998, $2,100,000,000 for fiscal year 1999, $1,800,000,000 for fiscal year 2000, $1,400,000,000 for fiscal year 2001, and $1,500,000,000 for fiscal year 2002; and

(ii) collect from each State (other than the Commonwealth of Puerto Rico, the Virgin Islands, or Guam) an amount equal to—

(I) the ratio of the number of all persons in the State receiving supplemental security income benefits under title XVI of the Social Security Act to the number of all persons in the United States receiving such benefits; multiplied by

(II) the difference estimated under clause (i).

(B) PAYMENT.—In order for any State (other than the Commonwealth of Perto Rico, the Virgin Islands, or Guam) to be eligible for payments pursuant to title XIX with respect to expenditures for any quarter in fiscal year 1998 through 2002, the State shall pay to the Commissioner of Social Security the amount required to be collected from the State under subparagraph (A)(ii) for the fiscal year.

(C) USE OF AMOUNTS COLLECTED.—For fiscal year 1998 and each subsequent fiscal year, the sums collected from each State pursuant to subparagraph (A)(ii) shall be credited to a special fund established in the Treasury of the United States for State administrative payment fees. Amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out title XVI of the Social Security Act and related laws.

AMENDMENT OFFERED BY MR. BROWN OF OHIO TO THE MEDICARE RECONCILIATION PROVISIONS

Page 8, line 6, strike "500,000" and insert "100,000".

Page 131, after line 36, insert the following new subsection (and redesignate the succeeding subsections accordingly):

(c) WAIVER OF COINSURANCE.—Section 1833(a)(1) (42 U.S.C. 13951(a)(1)) is amended by—

(A) striking "and" at the end of clause (O), and

(B) inserting before the semicolon at the end the following: ", and with respect to screening mammography (as defined in section 1861(jj), the amount paid shall be 100 percent of the fee schedule amount provided under section 1848".

Page 132, line 7, before the period insert the following:

", except that the amendments made by subsection (c) shall apply to items and services furnished on or after January 1, 2000".

Page 133, after line 8, insert the following new subsection (and redesignate the succeeding subsections accordingly):

(c) WAIVER OF COINSURANCE.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended by—

(A) striking "and" at the end of clause (O), and

(B) inserting before the semicolon at the end the following: ", and with respect to screening pap smear and screening pelvic exam (as defined in section 1861(nn)), the amount paid shall be 100 percent of the fee schedule amount provided under section 1848".

Page 133, line 15, before the period insert the following:

", except that the amendments made by subsection (c) shall apply to items and services furnished on or after January 1, 2000".

Page 134, after line 14, insert the following new subsection (and redesignate the succeeding subsections accordingly):

(c) WAIVER OF COINSURANCE.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended by—

(A) striking "and" at the end of clause (O), and

(B) inserting before the semicolon at the end the following: ", and with respect to prostate cancer screening tests (as defined in section 1861(oo)), the amount paid shall be 100 percent of the fee schedule amount provided under section 1848".

Page 134, line 31, before the period insert the following:

", except that the amendments made by subsection (e) shall apply to items and services furnished on or after January 1, 2000".

Page 140, after line 33, insert the following new subsection (and redesignate the succeeding subsections accordingly):

(e) WAIVER OF COINSURANCE.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1) is amended by—

(A) striking "and" at the end of clause (O), and

(B) inserting before the semicolon at the end the following: ", and with respect to colorectal cancer screening test (as defined in section 1861(pp)), the amount paid shall be 100 percent of the fee schedule amount provided under section 1848".

Page 141, line 26, before the period insert the following:

", except that the amendments made by subsection (c) shall apply to items and services furnished on or after January 1, 2000".

Page 143, strike lines 24 through 30.

Page 145, after line 22, insert the following new subsection (and redesignate the succeeding subsection accordingly):

(c) WAIVER OF COINSURANCE.—Section 1833(a)(1) (42 U.S.C. 1395l(a)1)) is amended by—

(A) striking "and" at the end of clause (O), and

(B) inserting before the semicolon at the end the following:", and with respect to bone mass measurement (as defined in section 1861(rr)), the amount paid shall be 100 percent of the fee schedule amount provided under section 1848".

Page 141, line 26, before the period insert the following:

", except that the amendments made by subsection (c) shall apply to items and services furnished on or after January 1, 2000".

AMENDMENT OFFERED BY MR. BROWN OF OHIO TO THE CHILD HEALTH RECONCILIATION PROVISIONS

Add to the end the following new section:

SEC. 3504. CONTINUATION OF MEDICAID ELIGIBILITY FOR DISABLED CHILDREN WHO LOSE SSI BENEFITS

(a) IN GENERAL.—Section 1902(a)(10)(A)(i)(II) (42 U.S.C. 1396(a)(10)(A)(i)(II) is amended by inserting "or were being paid as of the date of enactment of section 211(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) and would continue to be paid but for enactment of that section" after "title XVI".

(b) EFFECTIVE DATE.—The amendment made by Sub-Section (a) applies to medical assistance furnished on or after July 1, 1997.

AMENDMENT OFFERED BY MR. BROWN OF OHIO TO THE CHILD HEALTH RECONCILIATION PROVISIONS

(Page & line nos. refer to Committee Print of 6/11/97, KIDCARE.006)

Page 2, amend lines 19 and 20 to read as follows:

"(3) Other methods specified under the plan other than direct purchase of services from providers.

AMENDMENT TO H.R. —, AS REPORTED, OFFERED BY MR. GEKAS OF PENNSYLVANIA AND MR. FROST OF TEXAS

Insert after section 966 of the bill the following (and conform the table of contents accordingly):

SEC. 967. EXEMPTION FROM REPORTING REQUIREMENTS FOR CERTAIN AMOUNTS PAID TO ELECTION OFFICIALS AND ELECTION WORKERS.

(A) IN GENERAL.—Section 6051 is amended by adding at the end the following new subsection:

"(g) EXCEPTION FOR CERTAIN AMOUNTS PAID TO ELECTION OFFICIALS AND ELECTION WORKERS.—Notwithstanding any other provision of this title, the Secretary may not require a statement described in this section to include any amount paid as remuneration for service performed by an election official or election worker (within the meaning of section 3121(b)(F)(iv)) if it is reasonable to believe that such remuneration is not subject to tax under chapter 21 (relating to Federal Insurance Contributions Act)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to remuneration paid after December 31, 1996, in taxable years ending after such date.

AMENDMENT TO H.R.—, AS REPORTED

OFFERED BY MR. BARTON OF TEXAS AND MR. MINGE

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

TITLE XI—BUDGET PROCESS ENFORCEMENT

SEC. 11001. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Balanced Budget Assurance Act of 1997".

(b) TABLE OF CONTENTS.—

TITLE XI—BUDGET PROCESS ENFORCEMENT

Sec. 11001. Short title and table of contents.
Sec. 11002. Definitions.
Subtitle A—Ensure That the Bipartisan Balanced Budget Agreement of 1997 Achieves Its Goal
Sec. 11101. Timetable.
Sec. 11102. Procedures to avoid sequestration or delay of new revenue reductions.
Sec. 11103. Effect on Presidents' budget submissions; point of order.
Sec. 11104. Deficit and revenue targets.
Sec. 11105. Direct spending caps.
Sec. 11106. Economic assumptions.
Sec. 11107. Revisions to deficit and revenue targets and to the caps for entitlements and other mandatory spending.
Subtitle B—Enforcement Provisions
Sec. 11201. Reporting excess spending.
Sec. 11202. Enforcing direct spending caps.
Sec. 11203. Sequestration rules.
Sec. 11204. Enforcing revenue targets.
Sec. 11205. Exempt programs and activities.
Sec. 11206. Special rules.
Sec. 11207. The current law baseline.
Sec. 11208. Limitations on emergency spending.

SEC. 11002. DEFINITIONS.

For purposes of this title:

(1) ELIGIBLE POPULATION.—The term "eligible population" shall mean those individuals to whom the United States is obligated to make a payment under the provisions of a law creating entitlement authority. Such term shall not include States, localities, corporations or other nonliving entities.

(2) SEQUESTER AND SEQUESTRATION.—The terms "sequester" and "sequestration" refer to or mean the cancellation of budgetary resources provided by discretionary appropriations or direct spending law.

(3) BREACH.—The term "breach" means, for any fiscal year, the amount (if any) by which outlays for that year (within a category of direct spending) is above that category's direct spending cap for that year.

(4) BASELINE.—The term "baseline" means the projection (described in section 11207) of current levels of new budget authority, outlays, receipts, and the surplus or deficit into the budget year and the outyears.

(5) BUDGETARY RESOURCES.—The term "budgetary resources" means new budget authority, unobligated balances, direct spending authority, and obligation limitations.

(6) DISCRETIONARY APPROPRIATIONS.—The term "discretionary appropriations" means budgetary resources (except to fund direct spending programs) provided in appropriation Acts. If an appropriation Act alters the level of direct spending or offsetting collections, that effect shall be treated as direct spending. Classifications of new accounts or activities and changes in classifications shall be made in consultation with the Committees on Appropriations and the Budget of the House of Representatives and the Senate and with CBO and OMB.

(7) DIRECT SPENDING.—The term "direct spending" means—

(A) budget authority provided by law other than appropriation Acts, including entitlement authority;

(B) entitlement authority; and

(C) the food stamp program.

If a law other than an appropriation Act alters the level of discretionary appropriations or offsetting collections, that effect shall be treated as direct spending.

(8) ENTITLEMENT AUTHORITY.—The term "entitlement authority" means authority (whether temporary or permanent) to make payments (including loans and grants), the budget authority for which is not provided for in advance by appropriation Acts, to any person or government if, under the provisions of the law containing such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such law.

(9) CURRENT.—The term "current" means, with respect to OMB estimates included with

a budget submission under section 1105(a) of title 31 U.S.C., the estimates consistent with the economic and technical assumptions underlying that budget.

(10) ACCOUNT.—The term "account" means an item for which there is a designated budget account designation number in the President's budget.

(11) BUDGET YEAR.—The term "budget year" means the fiscal year of the Government that starts on the next October 1.

(12) CURRENT YEAR.—The term "current year" means, with respect to a budget year, the fiscal year that immediately precedes that budget year.

(13) OUTYEAR.—The term "outyear" means, with respect to a budget year, any of the fiscal years that follow the budget year.

(14) OMB.—The term "OMB" means the Director of the Office of Management and Budget.

(15) CBO.—The term "CBO" means the Director of the Congressional Budget Office.

(16) BUDGET OUTLAYS AND OUTLAYS.—The terms "budget outlays" and "outlays" mean, with respect to any fiscal year, expenditures of funds under budget authority during such year.

(17) BUDGET AUTHORITY AND NEW BUDGET AUTHORITY.—The terms "budget authority" and "new budget authority" have the meanings given to them in section 3 of the Congressional Budget and Impoundment Control Act of 1974.

(18) APPROPRIATION ACT.—The term "appropriation Act" means an Act referred to in section 105 of title 1 of the United States Code.

(19) CONSOLIDATED DEFICIT.—The term "consolidated deficit" means, with respect to a fiscal year, the amount by which total outlays exceed total receipts during that year.

(20) SURPLUS.—The term "surplus" means, with respect to a fiscal year, the amount by which total receipts exceed total outlays during that year.

(21) DIRECT SPENDING CAPS.—The term "direct spending caps" means the nominal dollar limits for entitlements and other mandatory spending pursuant to section 11105 (as modified by any revisions provided for in this Act).

Subtitle A—Ensure That the Bipartisan Balanced Budget Agreement of 1997 Achieves Its Goal

SEC. 11101. TIMETABLE.

On or before:	Action to be completed:
January 15	CBO economic and budget update.
First Monday in February.	President's budget update based on new assumptions.
August 1	CBO and OMB updates.
August 15	Preview report.
Not later than November 1 (and as soon as practical after the end of the fiscal).	OMB and CBO Analyses of Deficits, Revenues and Spending Levels and Projections for the Upcoming Year.
November 1–December 15	Congressional action to avoid sequestration.
December 15	OMB issues final (look back) report for prior year and preview for current year.
December 15	Presidential sequester order or order delaying new/additional revenues reductions scheduled to take effect pursuant to reconciliation legislation enacted in calendar year 1997.

SEC. 11102. PROCEDURES TO AVOID SEQUESTRATION OR DELAY OF NEW REVENUE REDUCTIONS.

(a) SPECIAL MESSAGE.—If the OMB Analysis of Actual Spending Levels and Projections for the Upcoming Year indicates that—

(1) deficits in the most recently completed fiscal year exceeded, or the deficits in the budget year are projected to exceed, the deficit targets in section 11104;

(2) revenues in the most recently completed fiscal year were less than, or revenues in the current year are projected to be less than, the revenue targets in section 11104; or

(3) outlays in the most recently completed fiscal year exceeded, or outlays in the current year are projected to exceed, the caps in section 11104;

the President shall submit to Congress with the OMB Analysis of Actual Spending Levels and Projections for the Upcoming Year a special message that includes proposed legislative changes to—

(A) offset the net deficit or outlay excess;

(B) offset any revenue shortfall; or

(C) revise the deficit or revenue targets or the outlay caps contained in this Act;

through any combination of—

(i) reductions in outlays;

(ii) increases in revenues; or

(iii) increases in the deficit targets or expenditure caps, or reductions in the revenue targets, if the President submits a written determination that, because of economic or programmatic reasons, none of the variances from the balanced budget plan should be offset.

(b) INTRODUCTION OF THE PRESIDENT'S PACKAGE.—Not later than November 15, the message from the President required pursuant to subsection (a) shall be introduced as a joint resolution in the House of Representatives or the Senate by the chairman of its Committee on the Budget. If the chairman fails to do so, after November 15, the joint resolution may be introduced by any Member of that House of Congress and shall be referred to the Committee on the Budget of that House.

(c) HOUSE BUDGET COMMITTEE ACTION.—The Committee on the Budget of the House of Representatives shall, by November 15, report a joint resolution containing—

(1) the recommendations in the President's message, or different policies and proposed legislative changes than those contained in the message of the President, to ameliorate or eliminate any excess deficits or expenditures or any revenue shortfalls, or

(2) any changes to the deficit or revenue targets or expenditure caps contained in this Act, except that any changes to the deficit or revenue targets or expenditure caps cannot be greater than the changes recommended in the message submitted by the President.

(d) PROCEDURE IF THE COMMITTEES ON THE BUDGET OF THE HOUSE OF REPRESENTATIVES OR SENATE FAILS TO REPORT REQUIRED RESOLUTION.—

(1) AUTOMATIC DISCHARGE OF COMMITTEES ON THE BUDGET OF THE HOUSE.—If the Committee on the Budget of the House of Representatives fails, by November 20, to report a resolution meeting the requirements of subsection (c), the committee shall be automatically discharged from further consideration of the joint resolution reflecting the President's recommendations introduced pursuant to subsection (a), and the joint resolution shall be placed on the appropriate calendar.

(2) CONSIDERATION OF DISCHARGE RESOLUTION IN THE HOUSE.—If the Committee has been discharged under paragraph (1) above, any Member may move that the House of Representatives consider the resolution. Such motion shall be highly privileged and not debatable. It shall not be in order to consider any amendment to the resolution except amendments which are germane and which do not change the net deficit impact of the resolution.

(e) CONSIDERATION OF JOINT RESOLUTION IN THE HOUSE.—Consideration of resolution reported pursuant to subsection (c) or (d) shall be pursuant to the procedures set forth in section 305 of the Congressional Budget Act of 1974 and subsection (d).

(f) TRANSMITTAL TO SENATE.—If a joint resolution passes the House of Representatives pursuant to subsection (e), the Clerk of the House of Representatives shall cause the resolution to be engrossed, certified, and transmitted to the Senate within 1 calendar day of the day on which the resolution is passed. The resolution shall be referred to the Senate Committee on the Budget.

(g) REQUIREMENTS FOR SPECIAL JOINT RESOLUTION IN THE SENATE.—The Committee on the Budget of the Senate shall report not later than December 1—

(1) a joint resolution reflecting the message of the President; or

(2) the joint resolution passed by the House of Representatives, with or without amendment; or

(3) a joint resolution containing different policies and proposed legislative changes than those contained in either the message of the President or the resolution passed by the House of Representatives, to eliminate all or part of any excess deficits or expenditures or any revenue shortfalls, or

(4) any changes to the deficit or revenue targets, or to the expenditure caps, contained in this Act, except that any changes to the deficit or revenue targets or expenditure caps cannot be greater than the changes recommended in the message submitted by the President.

(h) PROCEDURE IF THE SENATE BUDGET COMMITTEE FAILS TO REPORT REQUIRED RESOLUTION.—

(1) AUTOMATIC DISCHARGE OF SENATE BUDGET COMMITTEE.—In the event that the Committee on the Budget of the Senate fails, by December 1, to report a resolution meeting the requirements of subsection (g), the committee shall be automatically discharged from further consideration of the joint resolution reflecting the President's recommendations introduced pursuant to subsection (a) and of the resolution passed by the House of Representatives, and both joint resolutions shall be placed on the appropriate calendar.

(2) CONSIDERATION OF DISCHARGE RESOLUTION IN THE SENATE.—(A) If the Committee has been discharged under paragraph (1), any member may move that the Senate consider the resolution. Such motion shall be highly privileged and not debatable. It shall not be in order to consider any amendment to the resolution except amendments which are germane and which do not change the net deficit impact of the resolution.

(B) Consideration of resolutions reported pursuant to subsections (c) or (d) shall be pursuant to the procedures set forth in section 305 of the Congressional Budget Act of 1974 and subsection (d).

(C) If the joint resolution reported by the Committees on the Budget pursuant to subsection (c) or (g) or a joint resolution discharged in the House of Representatives or the Senate pursuant to subsection (d)(1) or (h)(1) would eliminate less than—

(i) the entire amount by which actual or projected deficits exceed, or revenues fall short of, the targets in this Act; or

(ii) the entire amount by which actual or projected outlays exceed the caps contained in this Act;

then the Committee on the Budget of the Senate shall report a joint resolution, raising the deficit targets or outlay caps, or reducing the revenue targets for any year in which actual or projected spending, revenues or deficits would not conform to the deficit and revenue targets or expenditure caps in this Act.

(k) CONFERENCE REPORTS SHALL FULLY ADDRESS DEFICIT EXCESS.—It shall not be in order in the House of Representatives or the Senate to consider a conference report on a joint resolution to eliminate all or part of any excess deficits or outlays or to eliminate all or part of any revenue shortfall compared to the deficit and revenue targets and the expenditure caps contained in this Act, unless—

(1) the joint resolution offsets the entire amount of any overage or shortfall; or

(2) the House of Representatives and Senate both pass the joint resolution reported pursuant to subsection (j)(2).

The vote on any resolution reported pursuant to subsection (j)(2) shall be solely on the subject of changing the deficit or revenue targets or the expenditure limits in this Act.

SEC. 11103. EFFECT ON PRESIDENTS' BUDGET SUBMISSIONS; POINT OF ORDER.

(a) BUDGET SUBMISSION.—Any budget submitted by the President pursuant to section 1105(a) of title 31, United States Code, for each of fiscal years 1998 through 2007 shall be consistent with the spending, revenue, and deficit levels established in sections 11104 and 11105 or it shall recommend changes to those levels

(b) POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider any concurrent resolution on the budget unless it is consistent with the spending, revenue, and deficit levels established in sections 11104 and 11105.

SEC. 11104. DEFICIT AND REVENUE TARGETS.

(a) CONSOLIDATED DEFICIT (OR SURPLUS) TARGETS.—For purposes of sections 11102 and 11107, the consolidated deficit targets shall be—

(1) for fiscal year 1998, $90,500,000,000;

(2) for fiscal year 1999, $89,700,000,000;

(3) for fiscal year 2000, $83,000,000,000;

(4) for fiscal year 2001, $53,300,000,000; and

(5) for fiscal year 2002, there shall be a surplus of not less than $1,400,000,000.

(b) CONSOLIDATED REVENUE TARGETS.—For purposes of sections 11102, 11107, 11201, and 11204, the consolidated revenue targets shall be—

(1) for fiscal year 1998, $1,601,800,000,000;

(2) for fiscal year 1999, $1,664,200,000,000;

(3) for fiscal year 2000, $1,728,100,000,000;

(4) for fiscal year 2001, $1,805,100,000,000; and

(5) for fiscal year 2002, $1,890,400,000,000.

SEC. 11105. DIRECT SPENDING CAPS.

(a) IN GENERAL.—Effective upon submission of the report by OMB pursuant to subsection (c), direct spending caps shall apply to all entitlement authority except for undistributed offsetting receipts and net interest outlays. For purposes of enforcing direct spending caps under this Act, each separate program shown in the table set forth in subsection (d) shall be deemed to be a category.

(b) BUDGET COMMITTEE REPORTS.—Within 30 days after enactment of this Act, the Budget Committees of the House of Representatives and the Senate shall file with their respective Houses identical reports containing account numbers and spending levels for each specific category.

(c) REPORT BY OMB.—Within 30 days after enactment of this Act, OMB shall submit to the President and each House of Congress a report containing account numbers and spending limits for each specific category.

(d) CONTENTS OF REPORTS.—All direct spending accounts not included in these reports under separate categories shall be included under the heading "Other Entitlements and Mandatory Spending". These reports may include adjustments among the caps set forth in this Act as required below, however the aggregate amount available under the "Total Entitlements and Other Mandatory Spending" cap shall be identical in each such report and in this Act and shall be deemed to have been adopted as part of this Act. Each such report shall include the actual amounts of the caps for each year of fiscal years 1998 through 2002 consistent with the concurrent resolution on the budget for FY 1998 for each of the following categories:

Earned Income Tax Credit,

Family Support,

Federal retirement:

Civilian/other,

Military,

Medicaid,

Medicare,

Social security,

Supplemental security income,

Unemployment compensation,

Veterans' benefits,

Medicare,

Other entitlements and mandatory spending, and

Aggregate entitlements and other mandatory spending.

(e) ADDITIONAL SPENDING LIMITS.—Legislation enacted subsequent to this Act may include additional caps to limit spending for specific programs, activities, or accounts with these categories. Those additional caps (if any) shall be enforced in the same manner as the limits set forth in such joint explanatory statement.

SEC. 11106. ECONOMIC ASSUMPTIONS.

Subject to periodic reestimation based on changed economic conditions or changes in eligible population, determinations of the direct spending caps under section 11105, any breaches of such caps, and actions necessary to remedy such breaches shall be based upon the economic assumptions set forth in the joint explanatory statement of managers accompanying the concurrent resolution on the budget for fiscal year 1998 (House Concurrent Resolution 84, 105th Congress).

SEC. 11107. REVISIONS TO DEFICIT AND REVENUE TARGETS AND TO THE CAPS FOR ENTITLEMENTS AND OTHER MANDATORY SPENDING.

(a) AUTOMATIC ADJUSTMENTS TO DEFICIT AND REVENUE TARGETS AND TO CAPS FOR ENTITLEMENTS AND OTHER MANDATORY SPENDING.—When the President submits the budget under section 1105(a) of title 31, United States Code, for any year, OMB shall calculate (in the order set forth below), and the budget and reports shall include, adjustments to the deficit and revenue targets, and to the direct spending caps (and those limits as cumulatively adjusted) for the current year, the budget year, and each outyear, to reflect the following:

(1) CHANGES TO REVENUE TARGETS.—

(A) CHANGES IN GROWTH.—For Federal revenues and deficits under laws and policies enacted or effective before July 1, 1997, growth adjustment factors shall equal the ratio between the level of year-over-year growth measured for the fiscal year most recently completed and the applicable estimated level for that year as described in section 11105.

(B) CHANGES IN INFLATION.—For Federal revenues and deficits under laws and policies enacted or effective before July 1, 1997, inflation adjustment factors shall equal the ratio between the level of year-over-year growth measured for the fiscal year most recently completed and the applicable estimated level for that year as described in section 11105.

(2) ADJUSTMENTS TO DIRECT SPENDING CAPS.—

(A) CHANGES IN CONCEPTS AND DEFINITIONS.—The adjustments produced by changes in concepts and definitions shall equal the baseline levels of new budget authority and outlays using up-to-date concepts and definitions minus those levels using the concepts and definitions in effect before such changes. Such changes in concepts and definitions may only be made in consultation with the Committees on Appropriations, the Budget, and Government Reform and Oversight and Governmental Affairs of the House of Representatives and the Senate.

(B) CHANGES IN NET OUTLAYS.—Changes in net outlays for all programs and activities exempt from sequestration under section 11204.

(C) CHANGES IN INFLATION.—For direct spending under laws and policies enacted or effective on or before July 1, 1997, inflation adjustment factors shall equal the ratio between the level of year-over-year inflation measured for the fiscal year most recently completed and the applicable estimated level for that years as described in section 11105 (relating to economic assumptions). For direct spending under laws and policies enacted or effective after July 1, 1997, there shall be no adjustment to the direct spending caps (for changes in economic conditions including inflation, nor for changes in numbers of eligible beneficiaries) unless—

(i) the Act or the joint explanatory statement of managers accompanying such Act providing new direct spending includes economic projections and projections of numbers of beneficiaries; and

(ii) such Act specifically provides for automatic adjustments to the direct spending caps in section 11105 based on those projections.

(D) CHANGES IN ELIGIBLE POPULATIONS.—For direct spending under laws and policies enacted or effective on or before July 1, 1997, the basis for adjustments under this section shall be the same as the projections underlying Table A-4, CBO Baseline Projections of Mandatory Spending, Including Deposit Insurance (by fiscal year, in billions of dollars), published in An Analysis of the President's Budgetary Proposals for Fiscal Year 1998, March 1997, page 53. For direct spending under laws and policies enacted or effective after July 1, 1997, there shall be no adjustment to the direct spending caps for changes in numbers of eligible beneficiaries unless—

(i) the Act or the joint explanatory statement of managers accompanying such Act providing new direct spending includes economic projections and projections of numbers of beneficiaries; and

(ii) such Act specifically provides for automatic adjustments to the direct spending caps in section 11105 based on those projections.

(E) INTRA-BUDGETARY PAYMENTS.—From discretionary accounts to mandatory accounts. The baseline and the discretionary spending caps shall be adjusted to reflect those changes.

(c) CHANGES TO DEFICIT TARGETS.—The deficit targets in section 11104 shall be adjusted to reflect changes to the revenue targets or changes to the caps for entitlements and other mandatory spending pursuant to subsection (a).

(d) PERMISSIBLE REVISIONS TO DEFICIT AND REVENUE TARGETS AND DIRECT SPENDING CAPS.—Deficit and revenue targets and direct spending caps as enacted pursuant to sections 11104 and 11105 may be revised as follows: Except as required pursuant to section 11105(a), direct spending caps may only be amended by recorded vote. It shall be a matter of highest privilege in the House of Representatives and the Senate for a Member of the House of Representatives or the Senate to insist on a recorded vote solely on the question of amending such caps. It shall not be in order for the Committee on Rules of the House of Representatives to report a resolution waiving the provisions of this subsection. This subsection may be waived in the Senate only by an affirmative vote of three-fifths of the Members duly chosen and sworn.

Subtitle B—Enforcement Provisions

SEC. 11201. REPORTING EXCESS SPENDING.

(a) ANALYSIS OF ACTUAL DEFICIT, REVENUE, AND SPENDING LEVELS.—As soon as practicable after any fiscal year, OMB shall compile a statement of actual deficits, revenues, and direct spending for that year. The statement shall identify such spending by categories contained in section 11105.

(b) ESTIMATE OF NECESSARY SPENDING REDUCTION.—Based on the statement provided under subsection (a), the OMB shall issue a report to the President and the Congress on December 15 of any year in which such statement identifies actual or projected deficits, revenues, or spending in the current or immediately preceding fiscal years in violation of the revenue targets or direct spending caps in section 11104 or 11105, by more than one percent of the applicable total revenues or direct spending for such year. The report shall include:

(1) All instances in which actual direct spending has exceeded the applicable direct spending cap.

(2) The difference between the amount of spending available under the direct spending caps for the current year and estimated actual spending for the categories associated with such caps.

(3) The amounts by which direct spending shall be reduced in the current fiscal year so that total actual and estimated direct spending for all cap categories for the current and immediately preceding fiscal years shall not exceed the amounts available under the direct spending caps for such fiscal years.

(4) The amount of excess spending attributable solely to changes in inflation or eligible populations.

SEC. 11202. ENFORCING DIRECT SPENDING CAPS.

(a) PURPOSE.—This subtitle provides enforcement of the direct spending caps on categories of spending established pursuant to section 11105. This section shall apply for any fiscal year in which direct spending exceeds the applicable direct spending cap.

(b) GENERAL RULES.—

(1) ELIMINATING A BREACH.—Each non-exempt account within a category shall be reduced by a dollar amount calculated by multiplying the baseline level of sequestrable budgetary resources in that account at that time by the uniform percentage necessary to eliminate a breach within that category.

(2) PROGRAMS, PROJECTS, OR ACTIVITIES.—Except as otherwise provided, the same percentage sequestration shall apply to all programs, projects and activities within a budget account.

(3) INDEFINITE AUTHORITY.—Except as otherwise provided, sequestration in accounts for which obligations are indefinite shall be taken in a manner to ensure that obligations in the fiscal year of a sequestration and succeeding fiscal years are reduced, from the level that would actually have occurred, by the applicable sequestration percentage or percentages.

(4) CANCELLATION OF BUDGETARY RESOURCES.—Budgetary resources sequestered from any account other than an trust, special or revolving fund shall revert to the Treasury and be permanently canceled.

(5) IMPLEMENTING REGULATIONS.—Notwithstanding any other provision of law, administrative rules or similar actions implementing any sequestration shall take effect within 30 days after that sequestration.

SEC. 11203. SEQUESTRATION RULES.

(a) GENERAL RULES.—For programs subject to direct spending caps:

(1) TRIGGERING OF SEQUESTRATION.—Sequestration is triggered if total direct spending subject to the caps exceeds or is projected to exceed the aggregate cap for direct spending for the current or immediately preceding fiscal year.

(2) CALCULATION OF REDUCTIONS.—Sequestration shall reduce spending under each separate direct spending cap in proportion to the amounts each category of direct spending exceeded the applicable cap.

(3) UNIFORM PERCENTAGES.—In calculating the uniform percentage applicable to the sequestration of all spending programs or activities within each category, or the uniform percentage applicable to the sequestration of nonexempt direct spending programs or activities, the sequestrable base for direct spending programs and activities is the total level of outlays for the fiscal year for those programs or activities in the current law baseline.

(4) PERMANENT SEQUESTRATION OF DIRECT SPENDING.—Obligations in sequestered direct spending accounts shall be reduced in the fiscal year in which a sequestration occurs and in all succeeding fiscal years. Notwithstanding any other provision of this section, after the first direct spending sequestration, any later sequestration shall reduce direct spending by an amount in addition to, rather than in lieu of, the reduction in direct spending in place under the existing sequestration or sequestrations.

(5) SPECIAL RULE.—For any direct spending program in which—

(A) outlays pay for entitlement benefits;

(B) a current-year sequestration takes effect after the 1st day of the budget year;

(C) that delay reduces the amount of entitlement authority that is subject to sequestration in the budget; and

(D) the uniform percentage otherwise applicable to the budget-year sequestration of a program or activity is increased due to the delay;

then the uniform percentage shall revert to the uniform percentage calculated under paragraph (3) when the budget year is completed.

(6) INDEXED BENEFIT PAYMENTS.—If, under any entitlement program—

(A) benefit payments are made to persons or governments more frequently than once a year; and

(B) the amount of entitlement authority is periodically adjusted under existing law to reflect changes in a price index (commonly called "cost of living adjustments");

sequestration shall first be applied to the cost of living adjustment before reductions are made to the base benefit. For the first fiscal year to which a sequestration applies, the benefit payment reductions in such programs accomplished by the order shall take effect starting with the payment made at the beginning of January following a final sequester. For the purposes of this subsection, veterans' compensation shall be considered a program that meets the conditions of the preceding sentence.

(7) LOAN PROGRAMS.—For all loans made, extended, or otherwise modified on or after any sequestration under loan programs subject to direct spending caps—

(A) the sequestrable base shall be total fees associated with all loans made extended or otherwise modified on or after the date of sequestration; and

(B) the fees paid by borrowers shall be increased by a uniform percentage sufficient to produce the dollar savings in such loan programs for the fiscal year or years of the sequestrations required by this section.

Notwithstanding any other provision of law, in any year in which a sequestration is in effect, all subsequent fees shall be increased by the uniform percentage and all proceeds from such fees shall be paid into the general fund of the Treasury.

(8) INSURANCE PROGRAMS.—Any sequestration of a Federal program that sells insurance contracts to the public (including the Federal Crop Insurance Fund, the National Insurance Development Fund, the National Flood Insurance fund, insurance activities of the Overseas Private Insurance Corporation, and Veterans' Life insurance programs) shall be accomplished by increasing premiums on contracts entered into extended or otherwise modified, after the date a sequestration order takes effect by the uniform sequestration percentage. Notwithstanding any other provision of law, for any year in which a sequestration affecting such programs is in effect, subsequent premiums shall be increased by the uniform percentage and all proceeds from the premium increase shall be paid from the insurance fund or account to the general fund of the Treasury.

(9) STATE GRANT FORMULAS.—For all State grant programs subject to direct spending caps—

(A) the total amount of funds available for all States shall be reduced by the amount required to be sequestered; and

(B) if States are projected to receive increased funding in the budget year compared to the immediately preceding fiscal year, sequestration shall first be applied to the estimated increases before reductions are made compared to actual payments to States in the previous year—

(i) the reductions shall be applied first to the total estimated increases for all States; then

(ii) the uniform reduction shall be made from each State's grant; and

(iii) the uniform reduction shall apply to the base funding levels available to states in the immediately preceding fiscal year only to the extent necessary to eliminate any remaining excess over the applicable direct spending cap.

(10) SPECIAL RULE FOR CERTAIN PROGRAMS.—Except matters exempted under section 11204 and programs subject to special rules set forth under section 11205 and notwithstanding any other provisions of law, any sequestration required under this Act shall reduce benefit levels by an amount sufficient to eliminate all excess spending identified in the report issued pursuant to section 11201,

while maintaining the same uniform percentage reduction in the monetary value of benefits subject to reduction under this subsection.

(b) WITHIN-SESSION SEQUESTER.—If a bill or resolution providing direct spending for the current year is enacted before July 1 of that fiscal year and causes a breach within any direct spending cap for that fiscal year, 15 days later there shall be a sequestration to eliminate that breach within that cap.

SEC. 11204. ENFORCING REVENUE TARGETS.

(a) PURPOSE.—This section enforces the revenue targets established pursuant to section 11104. This section shall apply for any year in which actual revenues were less than the applicable revenue target in the preceding fiscal year or are projected to be less than the applicable revenue target in the current year.

(b) ESTIMATE OF NECESSITY TO SUSPEND NEW REVENUE REDUCTIONS.—Based on the statement provided under section 11201(a), OMB shall issue a report to the President and the Congress on December 15 of any year in which such statement identifies actual or projected revenues in the current or immediately preceding fiscal years lower than the applicable revenue target in section 11104, as adjusted pursuant to section 11106, by more than 1 percent of the applicable total revenue target for such year. The report shall include—

(1) all laws and policies described in subsection (c) which would cause revenues to decline in the calendar year which begins January 1 compared to the provisions of law in effect on December 15;

(2) the amounts by which revenues would be reduced by implementation of the provisions of law described in paragraph (1) compared to provisions of law in effect on December 15; and

(3) whether delaying implementation of the provisions of law described in paragraph (1) would cause the total for revenues in the projected revenues in the current fiscal year and actual revenues in the immediately preceding fiscal year to equal or exceed the total of the targets for the applicable years.

(c) NO CREDITS, DEDUCTIONS, EXCLUSIONS, PREFERENTIAL RATE OF TAX, ETC.—If any provision of the Internal Revenue Code of 1986 added by the Revenue Reconciliation Act of 1997 would (but for this section) first take effect in a tax benefit suspension year, such provision shall not take effect until the first calendar year which is not a tax benefit suspension year.

(d) END OF SUSPENSION.—If the OMB report issued under subsection (a) following a tax benefit suspension year indicates that the total of revenues projected in the current fiscal year and actual revenues in the immediately preceding year will equal or exceed the applicable targets the President shall sign an order ending the delayed phase-in of new tax cuts effective January 1. Such order shall provide that the new tax cuts shall take effect as if the provisions of this section had not taken effect.

(e) SUSPENSION OF BENEFITS BEING PHASED IN.—If, under any provision of the Internal Revenue Code of 1986, there is an increase in any benefit which would (but for this section) take effect with respect to a tax benefit suspension year, in lieu of applying subsection (c)—

(1) any increase in the benefit under such section with respect to such year and each subsequent calendar year shall be delayed 1 calendar year, and

(2) the level of benefit under such section with respect to the prior calendar year shall apply to such tax benefit suspension year.

(f) PERCENTAGE SUSPENSION WHERE FULL SUSPENSION UNNECESSARY TO ACHIEVE REVENUE TARGET.—If the application of subsections (c), (d), and (e) to any tax benefit suspension year would (but for this subsection) cause revenues to decline in the calendar year which begins January 1 compared to the provisions of law in effect on December 15; subsections (c) (d) and (e) shall be applied such that the amount of each benefit which is denied is only the percentage of such benefit which is necessary to result in revenues equal to such target. Such percentage shall be determined by OMB, and the same percentage shall apply to such benefits.

(g) TAX BENEFIT SUSPENSION YEAR.—For purposes of this section, the term "tax benefit suspension year" means any calendar year if the statement issued under subsection (b) during the preceding calendar year indicates that—

(1) for the fiscal year ending in such preceding calendar year, actual revenues were lower than the applicable revenue target in section 11104, as adjusted pursuant to section 11106, for such fiscal year by more than 1 percent of such target, or

(2) for the fiscal year beginning in such preceding calendar year, projected revenues (determined without regard to this section) are estimated to be lower than the applicable revenue target in section 11104, as adjusted pursuant to section 11106, for such fiscal year by more than 1 percent of such target.

SEC. 11205. EXEMPT PROGRAMS AND ACTIVITIES.

The following budget accounts, activities within accounts, or income shall be exempt from sequestration—

(1) net interest;

(2) all payments to trust funds from excise taxes or other receipts or collections properly creditable to those trust funds;

(3) offsetting receipts and collections;

(4) all payments from one Federal direct spending budget account to another Federal budget account;

(5) all intragovernmental funds including those from which funding is derived primarily from other Government accounts;

(6) expenses to the extent they result from private donations, bequests, or voluntary contributions to the Government;

(7) nonbudgetary activities, including but not limited to—

(A) credit liquidating and financing accounts;

(B) the Pension Benefit Guarantee Corporation Trust Funds;

(C) the Thrift Savings Fund;

(D) the Federal Reserve System; and

(E) appropriations for the District of Columbia to the extent they are appropriations of locally raised funds;

(8) payments resulting from Government insurance, Government guarantees, or any other form of contingent liability, to the extent those payments result from contractual or other legally binding commitments of the Government at the time of any sequestration;

(9) the following accounts, which largely fulfill requirements of the Constitution or otherwise make payments to which the Government is committed—

Bureau of Indian Affairs, miscellaneous trust funds, tribal trust funds (14-9973-0-7-999);

Claims, defense;

Claims, judgments and relief act (20-1895-0-1-806);

Compact of Free Association, economic assistance pursuant to Public Law 99-658 (14-0415-0-1-806);

Compensation of the President (11-0001-0-1-802);

Customs Service, miscellaneous permanent appropriations (20-9992-0-2-852);

Eastern Indian land claims settlement fund (14-2202-0-1-806);

Farm Credit System Financial Assistance Corporation, interest payments (20-1850-0-1-351);

Internal Revenue collections of Puerto Rico (20-5737-0-2-852);

Payments of Vietnam and USS Pueblo prisoner-of-war claims (15-0104-0-1-153);

Payments to copyright owners (03-5175-0-2-376);

Salaries of Article III judges (not including cost of living adjustments);

Soldier's and Airman's Home, payment of claims (84-8930-0-7-705);

Washington Metropolitan Area Transit Authority, interest payments (46-0300-0-1-401);

(10) the following noncredit special, revolving, or trust-revolving funds—

Exchange Stabilization Fund (20-4444-0-3-155); and

Foreign Military Sales trust fund (11-82232-0-7-155).

(j) OPTIONAL EXEMPTION OF MILITARY PERSONNEL.—

(1) The President may, with respect to any military personnel account, exempt that account from sequestration or provide for a lower uniform percentage reduction that would otherwise apply.

(2) The President may not use the authority provided by paragraph (1) unless he notifies the Congress of the manner in which such authority will be exercised on or before the initial snapshot date for the budget year.

SEC. 11206. SPECIAL RULES.

(a) CHILD SUPPORT ENFORCEMENT PROGRAM.—Any sequestration order shall accomplish the full amount of any required reduction in payments under sections 455 and 458 of the Social Security Act by reducing the Federal matching rate for State administrative costs under the program, as specified (for the fiscal year involved) in section 455(a) of such Act, to the extent necessary to reduce such expenditures by that amount.

(b) COMMODITY CREDIT CORPORATION.—

(1) EFFECTIVE DATE.—For the Commodity Credit Corporation, the date on which a sequestration order takes effect in a fiscal year shall vary for each crop of a commodity. In general, the sequestration order shall take effect when issued, but for each crop of a commodity for which 1-year contracts are issued as an entitlement, the sequestration order shall take effect with the start of the sign-up period for that crop that begins after the sequestration order is issued. Payments for each contract in such a crop shall be reduced under the same terms and conditions.

(2) DAIRY PROGRAM.—

(A) As the sole means of achieving any reduction in outlays under the milk price-support program, the Secretary of Agriculture shall provide for a reduction to be made in the price received by producers for all milk in the United States and marketed by producers for commercial use.

(B) That price reduction (measured in cents per hundred-weight of milk marketed) shall occur under subparagraph (A) of section 201(d)(2) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(2)(A)), shall begin on the day any sequestration order is issued, and shall not exceed the aggregate amount of the reduction in outlays under the milk price-support program, that otherwise would have been achieved by reducing payments made for the purchase of milk or the products of milk under this subsection during that fiscal year.

(3) EFFECT OF DELAY.—For purposes of subsection (b)(1), the sequestrable base for Commodity Credit Corporation is the current-year level of gross outlays resulting from new budget authority that is subject to reduction under paragraphs (1) and (2).

(4) CERTAIN AUTHORITY NOT TO BE LIMITED.—Nothing in this Act shall restrict the Corporation in the discharge of its authority and responsibility as a corporation to buy and sell commodities in world trade, or limit or reduce in any way any appropriation that provides the Corporation with funds to cover its realized losses.

(c) EARNED INCOME TAX CREDIT.—

(1) The sequestrable base for earned income tax credit program is the dollar value of all current year benefits to the entire eligible population.

(2) In the event sequestration is triggered to reduce earned income tax credits, all earned income tax credits shall be reduced, whether or not such credits otherwise would result in cash payments to beneficiaries, by a uniform percentage sufficient to produce the dollar savings required by the sequestration.

(d) REGULAR AND EXTENDED UNEMPLOYMENT COMPENSATION.—

(1) A State may reduce each weekly benefit payment made under the regular and extended unemployment benefit programs for any week of unemployment occurring during any period with respect to which payments are reduced under any sequestration order by a percentage not to exceed the percentage by which the Federal payment to the State is to be reduced for such week as a result of such order.

(2) A reduction by a State in accordance with paragraph (1) shall not be considered as a failure to fulfill the requirements of section 3304(a)(11) of the Internal Revenue Code of 1986.

(e) FEDERAL EMPLOYEES HEALTH BENEFITS FUND.— For the Federal Employees Health Benefits Fund, a sequestration order shall take effect with the next open season. The sequestration shall be accomplished by annual payments from that Fund to the General Fund of the Treasury. Those annual payments shall be financed solely by charging higher premiums. The sequestrable base for the Fund is the current-year level of gross outlays resulting from claims paid after the sequestration order takes effect.

(f) FEDERAL HOUSING FINANCE BOARD.—Any sequestration of the Federal Housing Board shall be accomplished by annual payments (by the end of each fiscal year) from that Board to the general fund of the Treasury, in amounts equal to the uniform sequestration percentage for that year times the gross obligations of the Board in that year.

(g) FEDERAL PAY.—

(1) IN GENERAL.— New budget authority to pay Federal personnel from direct spending accounts shall be reduced by the uniform percentage calculated under section 11203(c)(3), as applicable, but no sequestration order may reduce or have the effect of reducing the rate of pay to which any individual is entitled under any statutory pay system (as increased by any amount payable under section 5304 of title 5, United States Code, or any increase in rates of pay which is scheduled to take effect under section 5303 of title 5, United States Code, section 1109 of title 37, United States Code, or any other provision of law.

(2) DEFINITIONS.—For purposes of this subsection—

(A) the term "statutory pay system" shall have the meaning given that term in section 5302(1) of title 5, United States Code;

term "elements of military pay" means—

(i) the elements of compensation of members of the uniformed services specified in section 1009 of title 37, United States Code;

(ii) allowances provided members of the uniformed services under sections 403(a) and 405 of such title; and

(iii) cadet pay and midshipman pay under section 203(c) of such title; and

(B) the term "uniformed services" shall have the same meaning given that term in section 101(3) of title 37, United States Code.

(h) MEDICARE.—

(1) TIMING OF APPLICATION OF REDUCTIONS.—

(A) IN GENERAL.— Except as provided in subparagraph (B), if a reduction is made in payment amounts pursuant to sequestration order, the reduction shall be applied to payment for services furnished after the effective date of the order. For purposes of the previous sentence, in the case of inpatient services furnished for an individual, the services shall be considered to be furnished on the date of the individual's discharge from the inpatient facility.

(B) PAYMENT ON THE BASIS OF COST REPORTING PERIODS.— In the case in which payment for services of a provider of services is made under title XVIII of the Social Security Act on a basis relating to the reasonable cost incurred for the services during a cost reporting period of the provider, if a reduction is made in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for costs for such services incurred at any time during each cost reporting period of the provider any part of which occurs after the effective date of order, but only (for each such cost reporting period) in the same proportion as the fraction of the cost reporting period that occurs after the effective date of the order.

(2) NO INCREASE IN BENEFICIARY CHARGES IN ASSIGNMENT-RELATED CASES.—If a reduction in payment amounts is made pursuant to a sequestration order for services for which payment under part B of title XVIII of the Social Security Act is made on the basis of an assignment described in section 1842(b)(3)(B)(ii), in accordance with section 1842(b)(6)(B), or under the procedure described in section 1870(f)(1) of such Act, the person furnishing the services shall be considered to have accepted payment of the reasonable charge for the services, less any reduction in payment amount made pursuant to a sequestration order, as payment in full.

(3) PART B PREMIUMS.—In computing the amount and method of sequestration from part B of title XVIII of the Social Security Act—

(A) the amount of sequestration shall be calculated by multiplying the total amount by which Medicare spending exceeds the appropriate spending cap by a percentage that reflects the ratio of total spending under Part B to total Medicare spending; and

(B) sequestration in the Part B program shall be accomplished by increasing premiums to beneficiaries.

(4) NO EFFECT ON COMPUTATION OF AAPCC.—In computing the adjusted average per capita cost for purposes of section 1876(a)(4) of the Social Security Act, the Secretary of Health and Human Services shall not take into account any reductions in payment amounts which have been or may be effected under this part.

(i) POSTAL SERVICE FUND.— Any sequestration of the Postal Service Fund shall be accomplished by annual payments from that Fund to the General Fund of the Treasury, and the Postmaster General of the United States and shall have the duty to make those payments during the first fiscal year to which the sequestration order applies and each succeeding fiscal year. The amount of each annual payment shall be—

(1) the uniform sequestration percentage, times

(2) the estimated gross obligations of the Postal Service Fund in that year other than those obligations financed with an appropriation for revenue forgone that year.

Any such payment for a fiscal year shall be made as soon as possible during the fiscal year, except that it may be made in installments within that year if the payment schedule is approved by the Secretary of the Treasury. Within 30 days after the sequestration order is issued, the Postmaster General shall submit to the Postal Rate Commission a plan for financing the annual payment for that fiscal year and publish that plan in the Federal Register. The plan may assume efficiencies in the operation of the Postal Service, reductions in capital expenditures, increases in the prices of services, or any combination, but may not assume a lower Fund surplus or higher Fund deficit and shall follow the requirements of existing law governing the Postal Service in all other respects. Within 30 days of the receipt of that plan, the Postal Rate Commission shall approve the plan or modify it in the manner that modifications are allowed under current law. If the Postal Rate Commission does not respond to the plan within 30 days, the plan submitted by the Postmaster General shall go into effect. Any plan may be later revised by the submission of a new plan to the Postal Rate Commission, which may approve or modify it.

(j) POWER MARKETING ADMINISTRATIONS AND T.V.A.— Any sequestration of the Department of Energy power marketing administration funds or the Tennessee Valley Authority fund shall be accomplished by annual payments from those funds to the General Fund of the Treasury, and the administrators of those funds shall have the duty to make those payments during the fiscal year to which the sequestration order applies and each succeeding fiscal year. The amount of each payment by a fund shall be—

(1) the direct spending uniform sequestration percentage, times

(2) the estimated gross obligations of the fund in that year other than those obligations financed from discretionary appropriations for that year.

Any such payment for a fiscal year shall be made as soon as possible during the fiscal year, except that it may be made in installments within that year if the payment schedule is approved by the Secretary of the Treasury. Annual payments by a fund may be financed by reductions in costs required to produce the pre-sequester amount of power (but those reductions shall not include reductions in the amount of power supplied by the fund), by reductions in capital expenditures, by increases in tax rates, or by any combination, but may not be financed by a lower fund surplus, a higher fund deficit, additional borrowing, delay in repayment of principal on outstanding debt and shall follow the requirements of existing law governing the fund in all other respects. The administrator of a fund or the TVA Board is authorized to take the actions specified in this subsection in order to make the annual payments to the Treasury.

(k) BUSINESS-LIKE TRANSACTIONS.—Notwithstanding any other provision of law, for programs which provide a business-like service in exchange for a fee, sequestration shall be accomplished through a uniform increase

in fees (sufficient to produce the dollar savings in such programs for the fiscal year of the sequestration required by section 11201(a)(2), all subsequent fees shall be increased by the same percentage, and all proceeds from such fees shall be paid into the general fund of the Treasury, in any year for which a sequester affecting such programs are in effect.

SEC. 11207. THE CURRENT LAW BASELINE.

(a) SUBMISSION OF REPORTS.—CBO and OMB shall submit to the President and the Congress reports setting forth the budget baselines for the budget year and the next nine fiscal years. The CBO report shall be submitted on or before January 15. The OMB report shall accompany the President's budget.

(b) DETERMINATION OF THE BUDGET BASELINE.—(1) The budget baseline shall be based on the common economic assumptions set forth in section 11106, adjusted to reflect revisions pursuant to subsection (c).

(2) The budget baseline shall consist of a projection of current year levels of budget authority, outlays, revenues and the surplus or deficit into the budget year and the relevant outyears based on current enacted laws as of the date of the projection.

(3) For discretionary spending items, the baseline shall be the spending caps in effect pursuant to section 601(a)(2) of the Congressional Budget Act of 1974. For years for which there are no caps, the baseline for discretionary spending shall be the same as the last year for which there were statutory caps.

(4) For all other expenditures and for revenues, the baseline shall be adjusted by comparing unemployment, inflation, interest rates, growth and other economic indicators and changes ineligible population-for the most recent period for which actual data are available, compared to the assumptions contained in section 11106.

(c) REVISIONS TO THE BASELINE.—The baseline shall be adjusted for up-to-date economic assumptions when CBO submits its Economic and Budget Update and when OMB submits its budget update, and by August 1 each year, when CBO and OBM submit their midyear reviews.

SEC. 11208. LIMITATIONS ON EMERGENCY SPENDING.

(a) IN GENERAL.—(1) Within the discretionary caps for each fiscal year contained in this Act, an amount shall be withheld from allocation to the appropriate committees of the House of Representatives and of the Senate and reserved for natural disasters and other emergency purposes.

(2) Such amount for each such fiscal year shall not be less than 1 percent of total budget authority and outlays available within those caps for that fiscal year.

(3) The amounts reserved pursuant to this subsection shall be made available for allocation to such committees only if—

(A) the President has made a request for such disaster funds;

(B) the programs to be funded are included in such request; and

(C) the projected obligations for unforeseen emergency needs exceed the 10-year rolling average annual expenditures for existing programs included in the Presidential request for the applicable fiscal year.

(4) Notwithstanding any other provision of law—

(A) States and localities shall be required to maintain effort and ensure that Federal assistance payments do not replace, subvert or otherwise have the effect of reducing regularly budgeted State and local expenditures for law enforcement, refighting, road construction and maintenance, building construction and maintenance or any other category of regular government expenditure (to ensure that Federal disaster payments are made only for incremental costs directly attributable to unforeseen disasters, and do not replace or reduce regular State and local expenditures for the same purposes);

(B) the President may not take administrative action to waive any requirement for States or localities to make minimum matching payments as a condition or receiving Federal disaster assistance and prohibit the President from taking administrative action to waive all or part of any repayment of Federal loans for the State or local matching share required as a condition of receiving Federal disaster assistance, and this clause shall apply to all matching share requirements and loans to meet matching share requirements under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) and any other Acts pursuant to which the President may declare a disaster or disasters and States and localities otherwise qualify for Federal disaster assistance; and

(C) a two-thirds vote in each House of Congress shall be required for each emergency to reduce or waive the State matching requirement of to forgive all or part of loans for the State matching share as required under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

(b) EFFECT BUDGET RESOLUTIONS.—(1) All concurrent resolutions on the budget (including revisions) shall specify the amount of new budget authority and outlays within the discretionary spending cap that shall be withheld from allocation to the committees and reserved for natural disasters, and a procedure for releasing such funds for allocation to the appropriate committee. The amount withheld shall be equal to 1 percent of the total discretionary spending cap for fiscal year covered by the resolution, unless additional amounts are specified.

(2) The procedure for allocation of the amounts pursuant to paragraph (1) shall ensure that the funds are released for allocation only pursuant to the conditions contained in subsection (a)(3)(A) through (C).

(c) RESTRICTION ON USE OF FUNDS.—Notwithstanding any other provision of law, the amount reserved pursuant to subsection (a) shall not be available for other than emergency funding requirements for particular natural disasters or national security emergencies so designated by Acts of Congress.

(d) NEW POINT OF ORDER.—(1) Title IV of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"POINT OF ORDER REGARDING EMERGENCIES

"SEC. 408. It shall not be in order in the House of Representatives or the Senate to consider any bill or joint resolution, or amendment thereto or conference report thereon, containing an emergency designation for purposes of section 251(b)(2)(D) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 or of section 11207 of the Balanced Budget Assurance Act of 1997 if it also provides an appropriation or direct spending for any other item or contains any other matter, but that bill or joint resolution, amendment, or conference report may contain rescissions of budget authority or reductions of direct spending, or that amendment may reduce amounts for that emergency.".

(2) The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 407 the following new item:

"Sec. 408. Point of order regarding emergencies.".

AMENDMENT TO H.R. 2015, AS REPORTED

OFFERED BY MR. TAYLOR OF MISSISSIPPI

At the end of title IV, add the following new subtitle:

Subtitle J—Uniformed Services Medicare Subvention

SEC. 4901. DEFINITIONS.

For purposes of this subtitle:

(1) MEDICARE-ELIGIBLE COVERED MILITARY BENEFICIARY.—The term "medicare-eligible covered military beneficiary" means a beneficiary under chapter 55 of title 10, United States Code, who—

(A) is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.); and

(B) is enrolled in the supplementary medical insurance program under part B of such title (42 U.S.C. 1395j et seq.).

(2) TRICARE PROGRAM.—The term "TRICARE program" means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United States Code, principally section 1097 of such title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

(3) SUBVENTION PROGRAM.—The term "subvention program" means the program established under section 4902 to reimburse the Department of Defense, from the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), for health care services provided to medicare-eligible covered military beneficiaries through the managed care option of the TRICARE program.

(4) SECRETARIES.—The term "Secretaries" means the Secretary of Defense and the Secretary of Health and Human Services acting jointly.

SEC. 4902. ESTABLISHMENT OF SUBVENTION PROGRAM.

(a) ESTABLISHMENT REQUIRED.—The Secretary of Defense and the Secretary of Health and Human Services shall jointly establish a program to provide the Department of Defense with reimbursement, beginning October 1, 1997, in accordance with section 4903, from the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) for health care services provided to medicare-eligible covered military beneficiaries who agree to receive the health care services through the managed care option of the TRICARE program.

(b) VOLUNTARY ENROLLMENT.—For purposes of the subvention program, enrollment of medicare-eligible covered military beneficiaries in the managed care option of the TRICARE program shall be voluntary, except that the total number of medicare-eligible covered military beneficiaries so enrolled shall be subject to the capacity and funding limitations specified in section 4903.

(c) EFFECT OF ENROLLMENT.—In the case of a medicare-eligible covered military beneficiary who enrolls in the managed care option of the TRICARE program, payments may not be made under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) other than under the subvention program for health care services provided through the

managed care option, except that the Secretaries may provide exceptions for emergencies or other situations as the Secretaries consider appropriate.

(d) TRICARE PROGRAM ENROLLMENT FEE WAIVER.—The Secretary of Defense shall waive the enrollment fee applicable to any medicare-eligible covered military beneficiary enrolled in the managed care option of the TRICARE program for whom reimbursement may be made under section 4903.

(e) MODIFICATION OF TRICARE CONTRACTS.—In carrying out the subvention program, the Secretary of Defense may amend existing TRICARE program contracts as may be necessary to incorporate provisions specifically applicable to medicare-eligible covered military beneficiaries who enroll in the managed care option of the TRICARE program.

(f) COST SHARING.—The Secretary of Defense may establish cost sharing requirements for medicare-eligible covered military beneficiaries who enroll in the managed care option of the TRICARE program and for whom reimbursement may be made under section 4903.

(g) EXPANSION OF SUBVENTION PROGRAM.—The Secretaries may expand the subvention program to incorporate health care services provided to medicare-eligible covered military beneficiaries under the fee-for-service options of the TRICARE program if, in the report submitted under section 713 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–106; 110 Stat. 2591), the Secretaries determined that such expansion is feasible and advisable.

SEC. 4903. DETERMINATION OF REIMBURSEMENT AMOUNTS.

(a) REIMBURSEMENT OF DEPARTMENT OF DEFENSE.—

(1) BASIS OF PAYMENTS.—Beginning October 1, 1997, monthly payments to the Department of Defense under the subvention program shall be made from the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) on the basis that payments are made under section 1876(a) of the such Act (42 U.S.C. 1395mm(a)).

(2) AMOUNT OF PAYMENTS.—The Secretary of Health and Human Services shall make payments to the Department of Defense from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund (allocated by the Secretary of Health and Human Services between each trust fund based on the relative weight that each trust fund contributes to the required payment) at a per capita rate equal to 93 percent of the applicable adjusted average per capita cost for each medicare-eligible covered military beneficiary enrolled in the managed care option of the TRICARE program in excess of the number of such beneficiaries calculated under subsection (b) for the Department of Defense maintenance of health care effort.

(b) MAINTENANCE OF DEFENSE HEALTH CARE EFFORT.—

(1) MAINTENANCE OF EFFORT REQUIRED.—The Secretary of Defense shall maintain the Department of Defense health care efforts for medicare-eligible covered military beneficiaries so as to avoid imposing on the medicare program those costs that the Department of Defense would be expected to incur to provide health care services to medicare-eligible covered military beneficiaries in the absence of the subvention program.

(2) ESTIMATE OF PRIOR EFFORT.—For the first fiscal year of the subvention program, the Secretaries shall estimate the amount expended by the Department of Defense for fiscal year 1997 for providing health care items and services (other than pharmaceuticals provided to outpatients) to medicare-eligible covered military beneficiaries. For subsequent fiscal years, the amount so estimated shall be adjusted for inflation, for differences between estimated and actual amounts expended, and for changes in the Department of Defense health care budget that exceed $100,000,000.

(3) TARGET FOR DEFENSE EFFORT.—On the basis of the estimate made under paragraph (2), the Secretaries shall establish monthly targets of the number of medicare-eligible covered military beneficiaries for whom reimbursement will not be provided to the Department of Defense under subsection (a).

(c) PROTECTION OF MEDICARE PROGRAM AGAINST INCREASED COSTS.—

(1) PURPOSE.—The purpose of this subsection is to protect the medicare program against costs incurred under subsection (a) in connection with the provision of health care services to medicare-eligible covered military beneficiaries that would not have been incurred by the medicare program in the absence of the reimbursement requirement.

(2) REVIEW BY COMPTROLLER GENERAL.—Not later than December 31 of each year, the Comptroller General shall determine and submit to the Secretaries and Congress a report on the extent, if any, to which the costs of the Secretary of Defense under the TRICARE program and the costs of the Secretary of Health and Human Services under the medicare program have increased as a result of the subvention program.

(3) ACTIONS TO PREVENT INCREASED COSTS.—If the Secretaries determine that the trust funds under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) still incur excess costs as a result of the subvention program, the Secretaries shall take such steps as may be necessary to offset those excess costs (and prevent future excess costs), including suspension or termination of the subvention program, adjustment of the payment rate under subsection (a)(2), or an adjustment of the maintenance of effort requirements of the Department of Defense under subsection (b).

AMENDMENT TO H.R. —, AS REPORTED, OFFERED BY MR. KENNEDY OF MASSACHUSETTS.

(Amendment to Child Health Budget Reconciliation Provision)

In section 3502, in the section 2103(b)(2) of the Social Security Act as added by such section, insert before the period at the end the following: ", plus the average number of low-income children who have such coverage in the fiscal year, as estimated by the Secretary, only pursuant to a State-only funded health coverage program or pursuant to an optional expansion of coverage under the State's medicaid plan under title XIX".

AMENDMENT TO TAX RECONCILIATION PROVISIONS OFFERED BY MR. MCDERMOTT OF WASHINGTON AND MR. MATSUI

Strike section 934 of the bill (relating to standards for determining whether individuals are not employees).

AMENDMENT TO H.R.— , AS REPORTED, OFFERED BY MR. NADLER OF NEW YORK

(Offered to Medicare Reconciliation Provisions)

In section 3461(a)(3), in the paragraph (64)(A)(i) inserted by such section, by inserting before the semicolon at the end the following: "and so that coverage of services and treatment is not denied if they are determined to be medically necessary in the professional opinion of the treating health care provider, in consultation with the individual".

In sections 4001 and 10001, in the section 1852(d)(1) inserted by each such section, amend subparagraph (D) to read as follows:

"(D) the organization provides coverage of services and treatment of appropriate providers, including credentialed specialists when such treatment and services are determined to be medically necessary in the professional opinion of the treating health care provider, in consultation with the individual; and

---

AMENDMENT TO H.R.—, AS REPORTED, OFFERED BY MR. NADLER OF NEW YORK, MS. MALONEY OF NEW YORK, AND MR. SCHUMER

Strike section 7002 (relating to the sale of Governor's Island, New York) and redesignate subsequent sections of title VII accordingly.

Subtitle B of title III is amended by adding at the end the following:

SEC. 3102. SALE OF PETROLEUM PRODUCTS FROM WEEKS ISLAND FACILITY.

In fiscal year 2002, the Secretary of Energy shall sell 73,000,000 barrels of petroleum product from the Weeks Island facility of the Strategic Petroleum Reserve.

AMENDMENT TO THE BUDGET RECONCILIATION BILL OFFERED BY REPRESENTATIVE SANDER M. LEVIN

Strike subtitle D of title IX and insert the following:

Subtitle D—Restricting Welfare and Public Benefits for Aliens

SEC. 9301. EXCEPTION FOR CERTAIN DISABLED INDIVIDUALS FROM RESTRICTIONS ON SUPPLEMENTAL SECURITY INCOME AND MEDICAID PROGRAM PARTICIPATION BY QUALIFIED ALIENS.

(a) SSI EXCEPTION.—Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended by redesignating subparagraph (D) as subparagraph (E), and by inserting after subparagraph (C) the following new subparagraph:

"(D) SSI EXCEPTION FOR CERTAIN DISABLED ALIENS.—With respect to the program specified in paragraph (3)(A), paragraph (1) shall not apply to a qualified alien—

"(i) who is blind or disabled within the meaning of section 1614(a)(2) or 1614(a)(3), respectively, of the Social Security Act; and

"(ii) who, prior to August 23, 1996, was lawfully admitted for permanent residence or had otherwise obtained an immigration status included in the definition of 'qualified alien' under section 431.".

(b) MEDICAID EXCEPTION.—Section 402(b)(2) of such Act is amended by redesignating subparagraph (D) as subparagraph (E), and by inserting after subparagraph (C) the following new subparagraph:

"(D) MEDICAID EXCEPTION FOR CERTAIN DISABLED ALIENS.—With respect to the program specified in paragraph (3)(C), paragraph (1) shall not apply to a qualified alien who is an individual described in subsection (a)(2)(D).".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as though they had been included in the enactment of section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 9302. 2-YEAR EXTENSION OF 5-YEAR EXCEPTIONS FOR REFUGEES AND CERTAIN OTHER QUALIFIED ALIENS FROM BANS ON ELIGIBILITY FOR SSI AND MEDICAID.

(a) SSI.—Section 402(a)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended in the matter preceding clause (i) by inserting ", in the case of the Federal program specified in paragraph (3)(B), and 7 years, in the case of the Federal program specified in paragraph (3)(A)," after "5 years".

(b) MEDICAID.—Section 402(b)(2)(A) of such Act is amended in each of clauses (i), (ii), and (iii) by inserting "(or 7 years, in the case of the program specified in paragraph (3)(C))" after "5 years".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as though they had been included in the enactment of section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 9303. EXEMPTIONS FROM RESTRICTIONS ON SUPPLEMENTAL SECURITY INCOME PROGRAM PARTICIPATION BY PERMANENT RESIDENT ALIENS WHO ARE MEMBERS OF AN INDIAN TRIBE.

(a) IN GENERAL.—

(1) SPECIAL RESTRICTION APPLICABLE TO SSI.—Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended by redesignating subparagraph (E) (as previously redesignated by section 9301(a) of this Act) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

"(E) SSI EXCEPTION FOR PERMANENT RESIDENT ALIENS WHO ARE MEMBERS OF AN INDIAN TRIBE.—With respect to the program specified in paragraph (3)(A), paragraph (1) shall not apply to any alien who is lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act and who is a member of an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).".

(2) FIVE-YEAR RESTRICTION APPLICABLE TO NEW ENTRANTS.—Section 403(b) of such Act is amended by adding at the end the following new paragraph:

"(3) SSI EXCEPTION FOR PERMANENT RESIDENT ALIENS WHO ARE MEMBERS OF AN INDIAN TRIBE.—An alien described in section 402(a)(2)(E), but only with respect to the program specified in section 402(a)(3)(A).".

(b) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) of subsection (a) shall take effect as though they had been included in the enactment of sections 402 and 403, respectively, of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 9304. EXEMPTION FROM RESTRICTION ON SUPPLEMENTAL SECURITY INCOME PROGRAM PARTICIPATION BY CERTAIN RECIPIENTS ELIGIBLE ON THE BASIS OF VERY OLD APPLICATIONS.

(a) IN GENERAL.—Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended by redesignating subparagraph (F) (as previously redesignated by section 9303(a)(1) of this Act) as subparagraph (G), and by inserting after subparagraph (E) the following new subparagraph:

"(F) SSI EXCEPTION FOR CERTAIN RECIPIENTS ELIGIBLE ON THE BASIS OF VERY OLD APPLICATIONS.—With respect to the program specified in paragraph (3)(A), paragraph (1) shall not apply to any individual (i) who is eligible for benefits under such program for months after July 1996 on the basis of an application filed before January 1, 1979, and (ii) with respect to whom the Commissioner lacks clear and convincing evidence that such individual is an alien ineligible for such benefits as a result of the application of this section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as though it had been included in the enactment of section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 9305. EXTENSION OF DEADLINES FOR SSI REDETERMINATION PROVISIONS.

(a) IN GENERAL.—Section 402(a)(2)(G)(i) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (as redesignated by section 9304(a) of this Act) is amended—

(1) in subclause (I), by striking "the date which is 1 year after such date of enactment" and inserting "March 31, 1998 or, if later, the date which is 255 days after the date of the enactment of [INSERT SHORT TITLE OF THE ACT CONTAINING THIS AMENDMENT]"; and

(2) in subclause (III)—

(A) by striking "the date of the redetermination with respect to such individual" and inserting "March 31, 1998 or, if later, the date which is 255 days after the date of the enactment of [INSERT SHORT TITLE OF THE ACT CONTAINING THIS AMENDMENT]"; and

(B) by inserting ", and the provisions of section 1614(a)(4) and clauses (i) and (ii) of section 1631(a)(7)(A) of the Social Security Act shall not apply to such individual" before the period.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as though they had been included in the enactment of section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 9306. REALLOCATION OF DISABILITY DETERMINATION WORKLOADS RELATING TO ALIENS.

In any State making disability determinations in accordance with section 221 of the Social Security Act, the Commissioner of Social Security may, notwithstanding the provisions of such section specifying the circumstances under which the Commissioner may assume the disability determination function in such State, elect to make the determination of disability with respect to some or all of the individuals in such State who are described in section 402(a)(2)(D) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (as added by section 9301(a) of this Act) or to transfer responsibility for such function to another State that the Commissioner determines is willing and able to perform such function, if the Commissioner determines that such action is necessary to comply with the deadline specified in section 402(a)(2)(G)(i)(I) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (as redesignated by section 9304(a) of this Act).

SEC. 9307. PRESUMPTION OF DISABILITY FOR PURPOSES OF THE SUPPLEMENTAL SECURITY INCOME PROGRAM IN THE CASE OF CERTAIN QUALIFIED ALIENS RESIDING IN CERTAIN FACILITIES OR RECEIVING HOSPICE CARE.

For the purpose of determining whether a qualified alien (as defined in section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) meets the requirement contained in clause (i) of section 402(a)(2)(D) of such Act (as added by section 9301(a) of this Act), a qualified alien—

(1) who—

(A) has attained the age of 65; and

(B) resides in an institution (or distinct part of an institution) that is primarily engaged in providing medical, custodial, or other care to residents who, because of their mental or physical condition, require such care; or

(2) who is terminally ill and receiving hospice care,

shall be presumed to be blind or disabled within the meaning of section 1614(a)(2) or 1614(a)(3), respectively, of the Social Security Act. Such presumption may be rebutted only if the Commissioner of Social Security receives clear and convincing evidence to the contrary.

SEC. 9308. RELIANCE ON INFORMATION FROM OTHER AGENCIES.

(a) RELIANCE.—Notwithstanding any other provision of law, in determining whether a qualified alien (as defined in section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) meets the requirement respecting blindness or disability contained in clause (i) of section 402(a)(2)(D) of such Act (as added by section 9301(a) of this Act), the Commissioner of Social Security may rely on information from a State or Federal agency respecting the medical condition of such individual in any case where such information indicates to the Commissioner's satisfaction that such individual is blind or disabled within the meaning of section 1614(a)(2) or section 1614(a)(3), respectively, of the Social Security Act.

(b) PROVISION OF INFORMATION.—Notwithstanding any other provision of law other than section 6103 of the Internal Revenue Code of 1986, the Department of Health and Human Services, the Immigration and Naturalization Service, an agency of any State, or any other governmental agency may disclose to the Social Security Administration information respecting the medical condition of an individual that the Commissioner of Social Security requests for the purpose of making the determination described in subsection (a).

(c) TEMPORARY EXEMPTION FROM COMPUTER MATCHING REQUIREMENTS.—The provisions of subsections (e)(12), (o), (p), (q), and (u) of section 552a of title 5, United States Code, shall not apply to any computer matching program conducted during the one-year period following the date of the enactment of [INSERT SHORT TITLE OF THE ACT CONTAINING THIS PROVISION] for the purpose of making the determinations described in subsection (a).

SEC. 9309. TREATMENT OF CERTAIN AMERASIAN IMMIGRANTS AS REFUGEES.

(a) AMENDMENTS TO EXCEPTIONS FOR REFUGEES/ASYLEES.—

(1) FOR PURPOSES OF SSI AND FOOD STAMPS.—Section 402(a)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended—

(A) by striking "; or" at the end of clause (ii);

(B) by striking the period at the end of clause (iii) and inserting "; or"; and

(C) by adding after clause (iii) the following new clause:

"(iv) an alien is admitted to the United States as an Amerasian immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as incorporated into section 101(e) of the joint resolution making further continuing appropriations for the fiscal year 1988, Public Law 100-202, and amended by the 9th proviso under Migration and Refugee Assistance in title II of the Foreign

Operations, Export Financing, and Related Programs Appropriations Act, 1991, Public Law 101–513.".

(2) FOR PURPOSES OF TANF, SSBG, AND MEDICAID.—Section 402(b)(2)(A) of such Act is amended—

(A) by striking "; or" at the end of clause (ii);

(B) by striking the period at the end of clause (iii) and inserting "; or"; and

(C) by adding after clause (iii) the following new clause:

"(iv) an alien described in subsection (a)(2)(A)(iv) until 5 years (or 7 years, in the case of the program specified in paragraph (3)(C)) after the date of such alien's entry into the United States.".

(3) FOR PURPOSES OF EXCEPTION FROM 5-YEAR LIMITED ELIGIBILITY OF QUALIFIED ALIENS.—Section 403(b)(1) of such Act is amended by adding after subparagraph (C) the following new subparagraph:

"(D) An alien described in section 402(a)(2)(A)(iv).".

(4) FOR PURPOSES OF CERTAIN STATE PROGRAMS.—Section 412(b)(1) of such Act is amended by adding after subparagraph (C) the following new subparagraph:

"(D) An alien described in section 402(a)(2)(A)(iv).".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to periods beginning on or after October 1, 1997.

SEC. 9310. 5-YEAR LIMITED ELIGIBILITY FOR MEANS-TESTED PUBLIC BENEFITS: SPECIAL RULE FOR CUBAN AND HAITIAN ENTRANTS.

(a) CORRECTION OF REFERENCE.—Section 403(d) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended by striking "section 501(e)(2)" and inserting "section 501(e)".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective with respect to periods beginning on or after October 1, 1997.

AMENDMENT TO H.R.—, AS REPORTED, OFFERED BY MR. LEVIN OF MICHIGAN

Strike sections 5004 and 9004, and redesignate succeeding sections and amend the table of contents, accordingly.

AMENDMENT TO H.R.—, AS REPORTED, OFFERED BY MR. LEVIN OF MICHIGAN

Strike section 9102, and redesignate succeeding sections and amend the table of contents, accordingly.

AMENDMENT TO H.R.—, AS REPORTED (RELATING TO RECONCILIATION), OFFERED BY MR. CONYERS OF MICHIGAN

In section 9004(a) (Committee on Ways and Means print), and in section 5004(a) (Education and Labor print) strike the close marks and the period at the end.

In section 407(j) of the Social Security Act, as amended by Section 9004(a) of the bill, and in section 407(k) of the Social Security Act, as amended by Section 5004(a) of the bill, add the following at the end:

"(6) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to deny recipients of assistance engaging in work, work experience, or community service under this title protection under title VII of the Civil Rights Act of 1964."

AMENDMENT TO H.R.—, AS REPORTED, OFFERED BY MR. CONYERS OF MICHIGAN (MALPRACTICE)

Strike sections 4801 through 4812 (Committee on Commerce) and 10801 through 10812 (Committee on Ways and Means), redesignate succeeding sections, and conform the table of contents.

AMENDMENT OFFERED BY REPRESENTATIVE ROUKEMA AND REPRESENTATIVE POMEROY

Strike sections 5301 through 5307 of subtitle D of Title V.

AMENDMENT OFFERED BY MR. WAXMAN TO THE MEDICAID RECONCILIATION PROVISIONS

At the end of the text, add the following new chapter:

CHAPTER 4—EXTENSION OF PREMIUM PROTECTION FOR LOW-INCOME MEDICARE BENEFICIARIES

SEC. 3481. EXTENSION OF SLMB PROTECTION.

(a) IN GENERAL.—Section 1902(a)(10)(E)(iii) (42 U.S.C. 1396a(a)(10)(E)(iii)) is amended by striking "and 120 percent in 1995 and years thereafter" and inserting ", 120 percent in 1995 through 1997, 130 percent in 1998, 140 percent in 1999, and 150 percent in 2000 and years thereafter".

(b) 100 PERCENT FMAP.—Section 1905(b) (42 U.S.C. 1396d(b)) is amended by adding at the end the following: "Notwithstanding the first sentence of this section, the Federal medical assistance percentage shall be 100 percent with respect to amounts expended as medical assistance for medical assistance described in section 1902(a)(10(E)(iii) for individuals described in such section whose income exceeds 120 percent of the official poverty line referred to in such section".

"(ii) in the manner and through the written instrumentalities such MedicarePlus organization deems appropriate, makes available information on its policies regarding such service to prospective enrollees before or during enrollment and to enrollees within 90 days after the date that the organization or plan adopts a policy regarding such a counseling or referral service.

AMENDMENT OFFERED BY REPRESENTATIVE DAVIS OF VIRGINIA AND REPRESENTATIVE NORTON OF THE DISTRICT OF COLUMBIA

The amendment consists of the text of H.R. 1963.

AMENDMENT TO H.R. —, AS REPORTED (RELATING TO RECONCILIATION) OFFERED BY MR. BERMAN OF CALIFORNIA

At an appropriate place, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. . AMENDMENT TO PRESERVE FOOD STAMP ELIGIBILITY OF MIGRANT AND SEASONAL AGRICULTURAL WORKERS.

Subtitle D of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended by adding at the end the following:

"SEC. 435. PRESERVATION OF ELIGIBILITY OF MIGRANT AND SEASONAL AGRICULTURAL WORKERS TO RECEIVE FOOD STAMP BENEFITS.

"(a) EXCLUSION OF MIGRANT AND SEASONAL AGRICULTURAL WORKERS.—Notwithstanding any other provision of this title, a migrant or seasonal agricultural worker who is eligible, as determined under the Food Stamp Act of 1977 (7 U.S.C. 2012(h)), to participate in the food stamp program (as defined in section 3(h) of such Act) shall not be determined, by reason of the operation of this title, to be ineligible to participate in such program.

"(b) DEFINITION.—For purposes of subsection (a), the term 'migrant or seasonal agricultural worker'—

"(1) has the meaning given the term 'migrant agricultural worker' in section 3(8) of Public Law 97–470 (29 U.S.C. 1802(8)), and

"(2) has the meaning given the term 'seasonal agricultural worker' in section 3(10) of Public Law 97–470 (29 U.S.C. 1802(10)).".

AMENDMENT TO H.R.—, AS REPORTED OFFERED BY MRS. THURMAN OF FLORIDA

[(Amendment to Medicare Reconciliation Provisions)]

At the end of subtitle D of title X (relating to Anti-Fraud and Abuse Provisions), add the following (and conform the table of contents of such title accordingly):

SEC. 10311. EXTENSION OF SUBPOENA AND INJUNCTION AUTHORITY.

(a) SUBPOENA AUTHORITY.—Section 1128A(j)(1) (42 U.S.C. 1320a–7a(j)(1)) is amended by inserting "and section 1128" after "with respect to this section".

(b) INJUNCTION AUTHORITY.—Section 1128A(k) (42 U.S.C. 1320a–7a(k)) is amended by inserting "or an exclusion under section 1128," after "subject to a civil monetary penalty under this section,".

(c) CLARIFYING AMENDMENTS.—Section 1128A(j) (42 U.S.C. 1320a–7a(j)) is amended—

(1) in paragraph (1)—

(A) by inserting ", except that, in so applying such sections, 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" after "with respect to title II"; and

(B) by striking the second sentence; and

(2) in paragraph (2), to read as follows:

"(2) The Secretary may delegate to the Inspector General of the Department of Health and Human Services any or all authority granted under this section or under section 1128.".

(d) CONFORMING AMENDMENT.—Section 1128 (42 U.S.C. 1320a–7) is amended by adding at the end the following new subsection:

"(j) REFERENCE TO LAWS DIRECTLY AFFECTING THIS SECTION.—For provisions of law concerning the Secretary's subpoena and injunction authority under this section, see section 1128A(j) and (k).".

SEC. 10312. KICKBACK PENALTIES FOR KNOWING VIOLATIONS.

Section 1128B(b) (42 U.S.C. 1320a–7b(b)) is amended by striking "and willfully" each place it occurs.

SEC. 10313. ELIMINATION OF EXCEPTION OF FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM FROM DEFINITION OF FEDERAL HEALTH CARE PROGRAM.

Section 1128B(f)(1) (42 U.S.C. 1320a–7b(f)(1)) is amended by striking "(other than the health insurance program under chapter 89 of title 5, United States Code)".

SEC. 10314. LIABILITY OF PHYSICIANS IN SPECIALTY HOSPITALS.

Section 1867(d)(1)(B) (42 U.S.C. 1395dd(d)(1)(B)) is amended—

(1) by inserting "or a physician working at or on-call at a hospital that is subject to the requirements of subsection (g)," after "physician on-call for the care of such an individual,";

(2) by striking "or" at the end of clause (i); and

(3) by adding after clause (ii) the following new clauses:

"(iii) fails or refuses to appear within a reasonable time at a hospital subject to the requirements of subsection (g) in order to provide an appropriate medical screening examination as required by subsection (a), or necessary stabilizing treatment as required by subsection (b), or

"(iv) fails or refuses to accept an appropriate transfer of a patient to a hospital that

has specialized capabilities or facilities as defined in subsection (g),".

SEC. 10315. EXPANSION OF CRIMINAL PENALTIES FOR KICKBACKS.

(a) APPLICATION OF CRIMINAL PENALTY AUTHORITY TO ALL HEALTH CARE BENEFIT PROGRAMS.—Section 1128B(b) (42 U.S.C. 1320a-7b(b)) is amended by striking "Federal health care program" each place it appears and inserting "health care benefit program".

(b) ATTORNEY GENERAL'S AUTHORITY TO SEEK CIVIL PENALTIES.—Section 1128B (42 U.S.C. 1320a-7b) is further amended by adding at the end the following new subsection:

"(g)(1) 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 section with respect to a Federal health care program a civil penalty of $25,000 to $50,000 for each such violation, and damages of three times the total remuneration offered, paid, solicited, or received.

"(2) A violation exists under paragraph (1) if one or more purposes of the remuneration is unlawful, and the damages shall be the full amount of such remuneration.

"(3) The procedures for actions under paragraph (1) with regard to subpoenas, statute of limitations, standard of proof, and collateral estoppel shall be governed by 31 U.S.C. 3731, and the Federal Rules of Civil Procedure shall apply to actions brought under this section.

"(4) This provision does not affect the availability of other criminal and civil remedies for such violations.".

(c) ATTORNEY GENERAL'S INJUNCTION AUTHORITY.—Section 1128B (42 U.S.C. 1320a-7b) is further amended by adding at the end the following new subsection:

"(h) If the Attorney General has reason to believe that a person is engaging in conduct constituting an offense under subsection (b) or (g), the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense. The filing of a petition under this section does not preclude any other remedy which is available by law to the United States or any other person.".

(d) DEFINITION.—Section 1128B(f) (42 U.S.C. 1320a-7b(f)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(2) by striking "(f)" and inserting "(f)(1)"; and

(3) by adding at the end the following new paragraph:

"(2) For purposes of this section, the term "health care benefit program" has the meaning given such term in 18 U.S.C. 24(b).".

(e) CONFORMING AMENDMENTS.—

(1) Section 1128A(a) (42 U.S.C. 1320a-7a(a)) is amended in the final sentence by striking "1128B(f)(1)" and inserting "1128B(f)(1)(A)"; and

(2) Section 24(a) of title 18 of the United States Code is amended—

(A) by striking the period at the end of paragraph (2) and adding a semicolon; and

(B) by adding after paragraph (2) the following new paragraph:

"(3) section 1128B of the Social Security Act.".

SEC. 10316. REPEAL OF HIPAA ADVISORY OPINION AUTHORITY.

Section 1128D (42 U.S.C. 1320a-7d) is amended by striking subsection (b).

SEC. 10317. REPEAL EXPANDED EXCEPTION FOR RISK-SHARING CONTRACT TO ANTI-KICKBACK PROVISIONS.

Section 1128B(b)(3) (42 U.S.C. 1320a-7b(b)(3)), as amended by section 216(a) of the Health Insurance Portability and Accountability Act of 1996, is amended—

(1) by adding "and" at the end of subparagraph (D);

(2) by striking "; and" at the end of subparagraph (E) and inserting a period; and

(3) by striking subparagraph (F).

SEC. 10318. ADMINISTRATIVE FEES FOR MEDICARE OVERPAYMENT COLLECTION.

(a) ADMINISTRATIVE FEES FOR PROVIDERS OF SERVICES UNDER PART A.—Section 1815(d) (42 U.S.C. 1395g(d)) is amended by inserting "(1)" after "(d)" and by adding at the end the following new paragraph:

"(2)(A) Except as provided in subparagraph (B), if the payment of the excess described in paragraph (1) is not made (or effected by offset) within 30 days of the date of the determination, an administrative fee of 1 percent of the outstanding balance of the excess (after application of paragraph (1)), or such lower amount as an Administrative Law Judge may determine upon an appeal of the initial determination of the excess, shall be imposed on the provider, for deposit into the Trust Fund under this part.

"(B) The administrative fee shall be imposed under subparagraph (A) on a provider of services paid on a prospective basis only if such provider's cost report with respect to the payment determined to be in excess of the payment due under this part indicates that the provider's projected costs exceeded its actual costs by 30 percent or more.".

(b) ADMINISTRATIVE FEES FOR PROVIDERS OF SERVICES OR OTHER PERSONS UNDER PART B.—Section 1833(j) (42 U.S.C. 1395l(j)) is amended by inserting "(1)" after "(j)" and by adding at the end the following new paragraph:

"(2) If the excess described in paragraph (1) is not made (or effected by offset) within 30 days of the date of the determination, an administrative fee of 1 percent of the outstanding balance of the excess (after application of paragraph (1)), or such lower amount as an Administrative Law Judge may determine upon an appeal of the initial determination of the excess, shall be imposed on the provider, or other person receiving the excess, for deposit into the Trust Fund under this part.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to final determinations made on or after the date of enactment of this Act.

SEC. 10319. AUTOMATED PREPAYMENT SCREENING REQUIREMENT.

(a) DETERMINATION BY ADMINISTRATOR.—By September 1 of each year (beginning with 1998), the Administrator of the Health Care Financing Administration, after consultation with the Comptroller General of the United States, shall determine—

(1) the medical diagnoses by providers of services under title XVIII of the Social Security Act which frequently result in overpayments to such providers under such title; and

(2) the percentage of claims involving the diagnoses described in paragraph (1), that fiscal intermediaries and carriers under such title shall screen before payment is made in order to avoid such overpayments.

(b) REQUIREMENT FOR FISCAL INTERMEDIARIES AND CARRIERS.—The Secretary of Health and Human Services shall not enter into a contract with a fiscal intermediary or carrier under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) unless the Secretary finds that such intermediary or carrier will screen the claims for payment, in accordance with subsection (a), under such title.

(c) NOTICE TO FISCAL INTERMEDIARIES AND CARRIERS.—The Secretary shall cause to have published in the Federal Register, in the last 15 days of October of each year, the results of the determination made under subsection (a).

AMENDMENT TO THE COMMITTEE PRINT OFFERED BY MR. BECERRA OF CALIFORNIA

At the end of subtitle D of title IX (relating to restricting welfare and public benefits for aliens) insert the following new section:

SEC. 9305. SSI ELIGIBILITY FOR CERTAIN DISABLED ALIENS.

Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(12)) is amended by inserting after subparagraph (F) (as added by section 9303) the following new subparagraph:

"(G) SSI ELIGIBILITY FOR CERTAIN DISABLED ALIENS.—With respect to the program specified in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1) shall not apply to a qualified alien—

"(i) who is blind or disabled within the meaning of section 1614(a)(2) or 1614(a)(3), respectively, of the Social Security Act; and

"(ii) who on or before August 22, 1996, obtained a status within the meaning of the term 'qualified alien'.".

AMENDMENT OFFERED BY MR. PALLONE, MS. ESHOO, AND MS. FURSE TO THE CHILD HEALTH RECONCILIATION PROVISIONS

Strike the entire text and insert the following:

Subtitle F—Child Health Insurance Initiative Act of 1997

SEC. 3500. SHORT TITLE OF SUBTITLE.

This subtitle may be cited as the "Child Health Insurance Initiative Act of 1997".

CHAPTER 1—IMPROVED OUTREACH

SEC. 3501. GRANT PROGRAM TO PROMOTE OUTREACH EFFORTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, for each fiscal year beginning with fiscal year 1998 to the Secretary of Health and Human Services, $25,000,000 for grants to States, localities, and nonprofit entities to promote outreach efforts to enroll eligible children under the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and related programs.

(b) USE OF FUNDS.—Funds under this section may be used to reimburse States, localities, and nonprofit entities for additional training and administrative costs associated with outreach activities. Such activities include the following:

(1) USE OF A COMMON APPLICATION FORM FOR FEDERAL CHILD ASSISTANCE PROGRAMS.—Implementing use of a single application form (established by the Secretary and based on the model application forms developed under subsections (a) and (b) of section 6506 of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 701 note; 1396a note)) to determine the eligibility of a child or the child's family (as applicable) for assistance or benefits under the medicaid program and under other Federal child assistance programs (such as the temporary assistance for needy families program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the food stamp program, as defined in section 3(h) of the Food Stamp Act of 1977 (7 U.S.C.

2012(h)), and the State program for foster care maintenance payments and adoption assistance payments under part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.)).

(2) EXPANDING OUTSTATIONING OF ELIGIBILITY PERSONNEL.—Providing for the stationing of eligibility workers at sites, such as hospitals and health clinics, at which children receive health care or related services.

(c) APPLICATION, ETC.—Funding shall be made available under this section only upon the approval of an application by a State, locality, or nonprofit entity for such funding and only upon such terms and conditions as the Secretary specifies.

(d) ADMINISTRATION.—The Secretary may administer the grant program under this section through the identifiable administrative unit designated under section 509(a) of the Social Security Act (42 U.S.C. 709(a)) to promote coordination of medicaid and maternal and child health activities and other child health related activities.

CHAPTER 2—STRENGTHENING MEDICAID PROGRAM

SEC. 3521. STATE OPTION OF CONTINUOUS ELIGIBILITY FOR 12 MONTHS FOR CHILDREN UNDER THE MEDICAID PROGRAM.

(a) IN GENERAL.—Section 1902(e) of the Social Security Act (42 U.S.C. 1396a(e)) is amended by adding at the end the following new paragraph:

"(12) At the option of the State, the plan may provide that an individual who is under an age specified by the State (not to exceed 19 years of age) and who is determined to be eligible for benefits under a State plan approved under this title under subsection (a)(10)(A) shall remain eligible for those benefits until the earlier of—

"(A) the end of a period (not to exceed 12 months) following the determination; or

"(B) the time that the individual exceeds that age.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to medical assistance for items and services furnished on or after January 1, 1998.

SEC. 3522. CLARIFICATION OF STATE OPTION TO COVER ALL CHILDREN UNDER 19 YEARS OF AGE.

Effective upon the date of the enactment of this Act, section 1902(l)(1)(D) of the Social Security Act (42 U.S.C. 1396a(l)(1)(D)) is amended by inserting "(or, at the option of a State, after any earlier date)" after "children born after September 30, 1983".

CHAPTER 3—MEDIKIDS PROGRAM

SEC. 3531. STATE ENTITLEMENT TO PAYMENT FOR MEDIKIDS PROGRAM.

(a) IN GENERAL.—Each State that has a plan for a child health insurance program, or MediKids program, approved by the Secretary is entitled to receive, from amounts in the Treasury not otherwise appropriated and for each fiscal year beginning with fiscal year 1998, payment of the amounts provided under section 3533.

(b) APPLICATION.—The Secretary shall establish a procedure for the submittal and approval of plans for MediKids programs under this chapter. The Secretary shall approve the plan of a State for such a program if the Secretary determines that—

(1) the State is meeting the medicaid coverage requirements of section 3532(a), and

(2) the plan provides assurances satisfactory to the Secretary that the MediKids program will be conducted consistent with the applicable requirements of section 3532.

SEC. 3532. REQUIREMENTS FOR APPROVAL OF MEDIKIDS PROGRAM.

(a) ADEQUATE MEDICAID COVERAGE.—The medicaid coverage requirements of this subsection are the following:

(1) COVERAGE OF PREGNANT WOMEN AND CHILDREN AND INFANTS UP TO 185 PERCENT OF POVERTY.—The State has established 185 percent of the poverty line as the applicable percentage under section 1902(l)(2)(A) of the Social Security Act (42 U.S.C. 1396a(l)(2)(A)).

(2) COVERAGE OF CHILDREN UP TO 19 YEARS OF AGE.—The State provides, either through exercise of the option under section 1902(l)(1)(D) of such Act (42 U.S.C. 1396a(l)(1)(D)) or authority under section 1902(r)(2) of such Act (42 U.S.C. 1396a(r)(2)) for coverage under section 1902(l)(1)(D) of such Act of individuals under 19 years of age, regardless of date of birth.

(3) MAINTENANCE OF EFFORT.—

(A) MEDICAID.—Subject to subparagraph (B), the State—

(i) has not modified the eligibility requirements for children under the State medicaid plan, as in effect on January 1, 1997 in any manner that would have the effect of reducing the eligibility of children for coverage under such plan, and

(ii) will use the funds provided under this chapter to supplement and not supplant other Federal and State funds.

(B) WAIVER EXCEPTION.—Subparagraph (A) shall not apply to modifications made pursuant to an application for a waiver under section 1115 of the Social Security Act (42 U.S.C. 1315) submitted before January 1, 1997.

(b) COVERAGE OF UNINSURED CHILDREN.—

(1) IN GENERAL.—A MediKids program shall not provide benefits for children who are otherwise covered for such benefits under a medicaid plan or under a group health plan, health insurance coverage, or other health benefits coverage, but may expend funds for outreach and other activities in order to promote coverage under such plans.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a MediKids plan of a State to provide coverage for all near poverty level children described in paragraph (1) who are residing in the State.

(c) MEDICAID-EQUIVALENT BENEFITS.—

(1) IN GENERAL.—Subject to subsection (d), a MediKids program shall provide benefits to eligible children for the equivalent items and services for which medical assistance is available (other than cost sharing) to children under the State's medicaid plan.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as limiting the method under which a MediKids plan may provide benefits, including through purchase of health insurance coverage, direct payment for covered services, or otherwise.

(d) PREMIUMS AND COST-SHARING.—A MediKids program may—

(1) require the payment of premiums as a condition for coverage, but only for a covered child whose family income exceeds the poverty line;

(2) impose deductibles, coinsurance, copayments, and other forms of cost-sharing with respect to benefits under the program; and

(3) vary the levels of premiums, deductibles, coinsurance, copayments, and other cost-sharing based on a sliding scale related to the family income of the covered child.

SEC. 3533. PAYMENT AMOUNTS.

(a) TOTAL AMOUNT AVAILABLE.—The total amount of funds that is available for payments under this chapter in any fiscal year is $2,000,000,000.

(b) ALLOTMENT AMONG STATES.—

(1) IN GENERAL.—The Secretary shall establish a formula for the allotment of the total amount of funds available under subsection (a) among the qualifying States for each fiscal year.

(2) BASIS.—The formula shall be based upon the Secretary's estimate of the number of near poverty level children in the State as a proportion of the total of such numbers for all the qualifying States.

(3) CARRYFORWARD.—If the Secretary does not pay to a State under subsection (c) in a fiscal year the amount of its allotment in that fiscal year under this subsection, the amount of its allotment under this subsection for the succeeding fiscal year shall be increased by the amount of such shortfall.

(c) PAYMENTS.—

(1) IN GENERAL.—From the allotment of each qualifying State under subsection (b) for a fiscal year, the Secretary shall pay to the State for each quarter in the fiscal year an amount equal to 75 percent of the total amount expended during such quarter to carry out the State's MediKids program.

(2) NOT COUNTING COST SHARING.—For purposes of paragraph (1), if a MediKids program imposes premiums for coverage or requires payment of deductibles, coinsurance, copayments, or other cost sharing, under rules of the Secretary, expenditures attributable to such premiums or cost sharing shall not be taken into account under paragraph (1).

(d) STATE ENTITLEMENT.—This chapter constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the payment to qualifying States of amounts provided under this section.

SEC. 3534. DEFINITIONS.

For purposes of this chapter:

(1) The term "child" means an individual under 19 years of age.

(2) The term "medicaid plan" means the plan of medical assistance of a State under title XIX of the Social Security Act.

(3) The term "MediKids program" means a child health insurance program of a State under this title.

(4) The term "near poverty level child" means a child the family income of which (as defined by the Secretary) is at least 100 percent, but less than 300 percent, of the poverty line.

(5) The term "poverty line" has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

(6) The term "qualifying State" means a State with a MediKids program for which a plan is submitted and approved under this title.

(7) The term "Secretary" means the Secretary of Health and Human Services .

(8) The term "State" means the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

CHAPTER 4—ASSURING CHILDREN'S ACCESS TO HEALTH INSURANCE

SEC. 3441. GUARANTEED AVAILABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE TO UNINSURED CHILDREN.

(a) IN GENERAL.—Title XXVII of the Public Health Service Act, as added by section 111(a) of the Health Insurance Portability and Accountability Act of 1996, is amended by inserting after section 2741 the following new section:

"SEC. 2741A. GUARANTEED AVAILABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE TO UNINSURED CHILDREN.

"(a) GUARANTEED AVAILABILITY.—

"(1) IN GENERAL.—Subject to the succeeding subsections of this section, each health insurance issuer that offers health insurance coverage (as defined in section 2791(b)(1)) in the individual market in a State, in the case of an eligible child (as defined in subsection (b)) desiring to enroll in individual health insurance coverage—

"(A) may not decline to offer such coverage to, or deny enrollment of, such child;

"(B) either (i) does not impose any preexisting condition exclusion (as defined in section 2701(b)(1)(A)) with respect to such coverage, or (ii) imposes such a preexisting condition exclusion only to the extent such an exclusion may be imposed under section 2701(a) in the case of an individual who is not a late enrollee; and

"(C) shall provide that the premium for the coverage is determined in a manner so that the ratio of the premium for such eligible children to the premium for eligible individuals described in section 2741(b) does not exceed the ratio of the actuarial value of such coverage (calculated based on a standardized population and a set of standardized utilization and cost factors) for children to such actuarial value for such coverage for such eligible individuals.

"(2) SUBSTITUTION BY STATE OF ACCEPTABLE ALTERNATIVE MECHANISM.—The requirement of paragraph (1) shall not apply to health insurance coverage offered in the individual market in a State in which the State is implementing an acceptable alternative mechanism under section 2744.

"(b) ELIGIBLE CHILD DEFINED.—In this part, the term 'eligible child' means an individual born after September 30, 1983, who has not attained 19 years of age and—

"(1) who is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien otherwise permanently residing in the United States under color of law;

"(2) who is not eligible for coverage under (A) a group health plan, (B) part A or part B of title XVIII of the Social Security Act, or (C) a State plan under title XIX of such Act (or any successor program), and does not have other health insurance coverage; and

"(3) with respect to whom the most recent coverage (if any, within the 1-year period ending on the date coverage is sought under this section) was not terminated based on a factor described in paragraph (1) or (2) of section 2712(b) (relating to nonpayment of premiums or fraud).

For purposes of paragraph (2)(A), the term 'group health plan' does not include COBRA continuation coverage.

"(c) INCORPORATION OF CERTAIN PROVISIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), the provisions of subsections (c), (d), (e) and (f) (other than paragraph (1)) of section 2741 and section 2744 shall apply in relation to eligible children under subsection (a) in the same manner as they apply in relation to eligible individuals under section 2741(a).

"(2) SPECIAL RULES FOR ACCEPTABLE ALTERNATIVE MECHANISMS.—With respect to applying section 2744 under paragraph (1)—

"(A) the requirement in subsection (a)(1)(B) shall be applied instead of the requirement of section 2744(a)(1)(B);

"(B) the requirement in subsection (a)(1)(C) shall be applied instead of the requirement of section 2744(a)(1)(D); and

"(C) any deadline specified in such section shall be 1 year after the deadline otherwise specified.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take apply 1 year after the effective date for section 2741 of the Public Health Service Act (as provided under section 111(b)(1) of the Health Insurance Portability and Accountability Act of 1996).

CHAPTER 5—APPROPRIATION FOR DATA

SEC. 3551. AUTHORIZATION OF APPROPRIATIONS.

In addition to any other amounts authorized to be appropriated, there are authorized to be appropriated $5,000,000 for the Bureau of the Census to refine the data on children in families with family incomes below 300 percent of the applicable Federal poverty level in each State.

AMENDMENT TO H.R. —, OFFERED BY MR. BENTSEN

Amend section 3471(b) to read as follows:

(b)(1) ADJUSTMENT TO STATE DSH ALLOCATIONS.—Subsection (f) of section 1923 (42 U.S.C. 1396r-4) is amended to read as follows:

"(f) LIMITATION ON FEDERAL FINANCIAL PARTICIPATION.—

"(1) IN GENERAL.—Subject to section 1903(x), payment under section 1903(a) shall not be made to a State with respect to any payment adjustment made under this section for hospitals in a State (as defined in paragraph (3)(B)) for quarters in a fiscal year in excess of the State disproportionate share hospital (in this subsection referred to as 'DSH') allotments for the year (as specified in paragraph (2)).

"(2) DETERMINATION OF STATE DSH ALLOTMENTS.—

"(A) IN GENERAL.—The DSH allotment for a State is equal to its State 1995 DSH spending minus—

"(i) for fiscal year 1998, 0;

"(ii) for fiscal year 1999, 15 percent of the State multiplier; and

"(iii) for fiscal year 2000 and each succeeding year, 25 percent of the State multiplier.

"(3) DEFINITIONS.—In this subsection:

"(A) STATE.—The term 'State' means the 50 States and the District of Columbia.

"(B) STATE 1995 DSH SPENDING.—The term—State 1995 DSH spending means, with respect to a State, the total amount of payment adjustments made under subsection (c) under the State plan during fiscal year 1995 as reported by the State no later than January 1, 1997, on HCFA Form 64.

"(C) STATE MULTIPLIER.—The term 'State multiplier' means, with respect to a State, the lesser of—

"(i) the State 1995 DSH spending; or

"(ii) 12 percent of the total amount of expenditures made under the State plan under this title for medical assistance during fiscal year 1995 as reported by the State no later than January 1, 1997 on HCFA Form 64.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to fiscal years beginning with fiscal year 1998.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I smell a cop-out. I hear Members standing up here finding all kinds of excuses to vote against this rule because it does not have any enforcement procedures. Let me show my colleagues something.

Here are thousands of pages of cuts, $182 billion in entitlement cuts over the next 5 years, $700 billion in locked-in spending cuts. If you want some fiscal sanity around here, do what your President is asking us to do; he is calling your offices right now, saying support the rule, support the bill. Let us get together. A deal is a deal.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 222, nays 204, not voting 8, as follows:

[Roll No. 238]

YEAS—222

Aderholt	Ewing	Lucas
Archer	Fawell	Manzullo
Armey	Foley	McCollum
Bachus	Forbes	McCrery
Baker	Fowler	McDade
Ballenger	Fox	McInnis
Barr	Franks (NJ)	McIntosh
Barrett (NE)	Frelinghuysen	McKeon
Bartlett	Gallegly	Metcalf
Barton	Ganske	Mica
Bass	Gekas	Miller (FL)
Bateman	Gibbons	Molinari
Bereuter	Gilchrest	Moran (KS)
Bilbray	Gillmor	Morella
Bilirakis	Gilman	Myrick
Bliley	Goodling	Nethercutt
Blunt	Goss	Neumann
Boehlert	Graham	Ney
Boehner	Granger	Northup
Bonilla	Greenwood	Norwood
Bono	Gutknecht	Nussle
Brady	Hansen	Oxley
Bryant	Hastert	Packard
Bunning	Hastings (WA)	Pappas
Burr	Hayworth	Parker
Burton	Hefley	Paul
Buyer	Herger	Paxon
Callahan	Hill	Pease
Calvert	Hilleary	Peterson (PA)
Camp	Hobson	Petri
Campbell	Hoekstra	Pickering
Canady	Horn	Pitts
Cannon	Hostettler	Pombo
Castle	Houghton	Porter
Chabot	Hulshof	Portman
Chambliss	Hunter	Pryce (OH)
Chenoweth	Hutchinson	Quinn
Christensen	Hyde	Radanovich
Coble	Inglis	Ramstad
Coburn	Istook	Redmond
Collins	Jenkins	Regula
Combest	Johnson (CT)	Riggs
Cook	Johnson, Sam	Riley
Cooksey	Jones	Rogan
Crane	Kasich	Rogers
Crapo	Kelly	Rohrabacher
Cubin	Kim	Ros-Lehtinen
Cunningham	King (NY)	Roukema
Davis (VA)	Kingston	Royce
Deal	Klug	Ryun
DeLay	Knollenberg	Salmon
Diaz-Balart	Kolbe	Sanford
Dickey	LaHood	Saxton
Doolittle	Largent	Scarborough
Dreier	Latham	Schaefer, Dan
Duncan	LaTourette	Schaffer, Bob
Dunn	Lazio	Sensenbrenner
Ehlers	Leach	Sessions
Ehrlich	Lewis (CA)	Shadegg
Emerson	Lewis (KY)	Shaw
English	Linder	Shays
Ensign	Livingston	Shimkus
Everett	LoBiondo	Shuster

Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—204

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

NOT VOTING—8

Cox
Eshoo
Goodlatte
McHugh
Pomeroy
Schiff
Smith (NJ)
Yates

□ 1313

Mr. GONZALEZ and Mr. ADAM SMITH of Washington changed their vote from "yea" to "nay."

Mr. GRAHAM changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. COMBEST). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MOAKLEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 228, noes 200, answered "present" 1, not voting 5, as follows:

[Roll No. 239]

YEAS—228

Aderholt
Archer
Armey
Bachus
Baker
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Collins
Combest
Cook
Cooksey
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—200

Abercrombie
Ackerman
Allen
Andrews
Baesler
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Ensign
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Snyder
Spratt
Stabenow
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

ANSWERED "PRESENT"—1

Coburn

NOT VOTING—5

Cox
Meek
Schiff
Stark
Yates

□ 1331

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT OF AMENDMENT PROCESS FOR THE 1998 INTELLIGENCE AUTHORIZATION BILL

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, the Committee on Rules is planning to meet during the week of July 7; that is the week we return, to grant a rule for consideration of H.R. 1775, the intelligence authorization bill for fiscal year 1998. The chairman of the Permanent Select Committee on Intelligence has requested a rule which would require the amendments be preprinted in the CONGRESSIONAL RECORD. If this request is granted, amendments to be preprinted would need to be signed by the Member and submitted at the Speaker's table, not at the Committee on Rules. The amendments would still need to be consistent with House rules and would be given no special protection by being printed. Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to be certain that their amendments comply with the rules of the House. It is not necessary to submit the amendments again to the Committee on Rules. Members must submit them to the table here in the House.

BALANCED BUDGET ACT OF 1997

Mr. KASICH. Mr. Speaker, pursuant to House Resolution 174, I call up the bill (H.R. 2015) to provide for reconciliation pursuant to subsections (b)(1) and (c) of section 105 of the concurrent resolution on the budget for fiscal year 1998, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. DREIER). Pursuant to House Resolution 174, the amendment printed in the CONGRESSIONAL RECORD numbered 1 is adopted.

The text of H.R. 2015, as amended, is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Balanced Budget Act of 1997".

SEC. 2. TABLE OF CONTENTS.

Title I—Committee on Agriculture.
Title II—Committee on Banking and Financial Services.
Title III—Committee on Commerce—Nonmedicare.
Title IV—Committee on Commerce—Medicare.
Title V—Committee on Education and the Workforce.
Tittle VI—Committee on Government Reform and Oversight.
Title VII—Committee on Transportation and Infrastructure.
Title VIII—Committee on Veterans' Affairs.
Title IX—Committee on Ways and Means—Nonmedicare.
Title X—Committee on Ways and Means—Medicare.
Title XI—Budget Enforcement.

TITLE I—COMMITTEE ON AGRICULTURE

SEC. 1001. EXEMPTION.

Section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o)) is amended—

(1) in paragraph (2)(D), by striking "or (5)" and inserting "(5), or (6)";

(2) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) 15-PERCENT EXEMPTION.—

"(A) DEFINITIONS.—In this paragraph:

"(i) CASELOAD.—The term 'caseload' means the average monthly number of individuals receiving food stamps during the 12-month period ending the preceding June 30.

"(ii) COVERED INDIVIDUAL.—The term 'covered individual' means a food stamp recipient, or an individual denied eligibility for food stamp benefits solely due to paragraph (2), who—

"(I) is not eligible for an exception under paragraph (3);

"(II) does not reside in an area covered by a waiver granted under paragraph (4);

"(III) is not complying with subparagraph (A), (B), or (C) of paragraph (2);

"(IV) is not in the first 3 months of eligibility under paragraph (2); and

"(V) is not receiving benefits under paragraph (6).

"(B) GENERAL RULE.—Subject to subparagraphs (C) through (F), a State agency may provide an exemption from the requirements of paragraph (2) for covered individuals.

"(C) FISCAL YEAR 1998.—Subject to subparagraph (E), for fiscal year 1998, a State agency may provide a number of exemptions such that the average monthly number of the exemptions in effect during the fiscal year does not exceed 15 percent of the number of covered individuals in the State in fiscal year 1998, as estimated by the Secretary, based on the survey conducted to carry out section 16(c) for fiscal year 1996 and such other factors as the Secretary considers appropriate due to the timing and limitations of the survey.

"(D) SUBSEQUENT FISCAL YEARS.—Subject to subparagraphs (E) and (F), for fiscal year 1999 and each subsequent fiscal year, a State agency may provide a number of exemptions such that the average monthly number of the exemptions in effect during the fiscal year does not exceed 15 percent of the number of covered individuals in the State, as estimated by the Secretary under subparagraph (C), adjusted by the Secretary to reflect changes in the State's caseload and the Secretary's estimate of changes in the proportion of food stamp recipients covered by waivers granted under paragraph (4).

"(E) CASELOAD ADJUSTMENTS.—The Secretary shall adjust the number of individuals estimated for a State under subparagraph (C) or (D) during a fiscal year if the number of food stamp recipients in the State varies by a significant number from the caseload, as determined by the Secretary.

"(F) EXEMPTION ADJUSTMENTS.—During fiscal year 1999 and each subsequent fiscal year, the Secretary shall increase or decrease the number of individuals who may be granted an exemption by a State agency to the extent that the average monthly number of exemptions in effect in the State for the preceding fiscal year is greater or less than the average monthly number of exemptions estimated for the State agency during such preceding fiscal year.

"(G) REPORTING REQUIREMENT.—A State agency shall submit such reports to the Secretary as the Secretary determines are necessary to ensure compliance with this paragraph.".

SEC. 1002. ADDITIONAL FUNDING FOR EMPLOYMENT AND TRAINING.

(a) IN GENERAL.—Section 16(h) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) IN GENERAL.—

"(A) AMOUNTS.—To carry out employment and training programs, the Secretary shall reserve for allocation to State agencies, to remain available until expended, from funds made available for each fiscal year under section 18(a)(1) the amount of—

"(i) for fiscal year 1996, $75,000,000;

"(ii) for fiscal year 1997, $79,000,000;

"(iii) for fiscal year 1998, $221,000,000;

"(iv) for fiscal year 1999, $224,000,000;

"(v) for fiscal year 2000, $226,000,000;

"(vi) for fiscal year 2001, $228,000,000; and

"(vii) for fiscal year 2002, $210,000,000.

"(B) LIMITATIONS.—The Secretary shall ensure that—

"(i) the funds provided in this subparagraph shall not be used for food stamp recipients who receive benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); and

"(ii) not less than 80 percent of the funds provided in this subparagraph shall be used by a State agency for employment and training programs under section 6(d)(4), other than job search or job search training programs, for food stamp recipients not excepted by section 6(o)(3).

"(C) ALLOCATION.—

"(i) ALLOCATION FORMULA.—The Secretary shall allocate the amounts reserved under subparagraph (A) among the State agencies using a reasonable formula, as determined and adjusted by the Secretary each fiscal year, to reflect changes in each State's caseload (as defined in section 6(o)(5)(A)) that reflects the proportion of food stamp recipients who reside in each State—

"(I) who are not eligible for an exception under section 6(o)(3); and

"(II) who do not reside in an area subject to the waiver granted by the Secretary under section 6(o)(4), if the State agency does not provide employment and training services in the area to food stamp recipients not excepted by section 6(o)(3).

"(ii) REPORTING REQUIREMENT.—A State agency shall submit such reports to the Secretary as the Secretary determines are necessary to ensure compliance with this paragraph."; and

"(D) REALLOCATION.—

"(i) NOTIFICATION.—A State agency shall promptly notify the Secretary if the State agency determines that it will not expend all of the funds allocated to it under subparagraph (B).

"(ii) REALLOCATION.—On notification under clause (i), the Secretary shall reallocate the funds that the State agency will not expend as the Secretary considers appropriate and equitable.

"(E) MINIMUM ALLOCATION.—Notwithstanding subparagraphs (A) through (C), the Secretary shall ensure that each State agency operating an employment and training program shall receive not less than $50,000 for each fiscal year.

"(F) MAINTENANCE OF EFFORT.—To receive the additional funding under subparagraph (A), as provided by the amendment made by section 1002 of the Balanced Budget Act of 1997, a State agency shall maintain the expenditures of the State agency for employment and training programs and workfare

programs for any fiscal year under paragraph (2), and administrative expenses under section 20(g)(1), at a level that is not less than the level of the expenditures by the State agency to carry out the programs for fiscal year 1996.";

(2) by redesignating paragraphs (2) through (5) as paragraphs (3) through (6), respectively;

(3) by inserting after paragraph (1) the following new paragraph:

"(2) REPORT TO CONGRESS ON ADDITIONAL FUNDING.—Beginning one year after the date of the enactment of this paragraph, the Secretary shall submit an annual report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate regarding whether the additional funding provided under paragraph (1)(A) has been utilized by State agencies to increase the number of work slots in their employment and training programs and workfare for recipients subject to section 6(o) in the most efficient and effective manner."; and

(4) in paragraph (3) (as so redesignated), by striking "paragraph (3)" and inserting "paragraph (4)".

(b) CONFORMING AMENDMENTS.—(1) Subsection (b)(1)(B)(iv)(III)(hh) of section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by striking "(h)(2), or (h)(3) of section 16" and inserting "(h)(3), or (h)(4) of section 16".

(2) Subsection (d)(1)(B)(ii) of section 22 of such Act (7 U.S.C. 2031) is amended by striking "(h)(2), and (h)(3) of section 16" and inserting "(h)(3), and (h)(4) of section 16".

SEC. 1003. AUTHORIZING USE OF NONGOVERNMENTAL PERSONNEL IN MAKING DETERMINATIONS OF ELIGIBILITY FOR BENEFITS UNDER THE FOOD STAMP PROGRAM.

(a) IN GENERAL.—Notwithstanding any other provision of law, no provision of law shall be construed as preventing any State (as defined in section 3(m) of the Food Stamp Act of 1977 (7 U.S.C. 2012(m))) from allowing eligibility determinations described in subsection (b) to be made by an entity that is not a State or local government, or by an individual who is not an employee of a State or local government, which meets such qualifications as the State determines. For purposes of any Federal law, such determinations shall be considered to be made by the State and by a State agency.

(b) ELIGIBILITY DETERMINATIONS.—An eligibility determination described in this subsection is a determination of eligibility of individuals or households to receive benefits under the food stamp program as defined in section 3(h) of the Food Stamp Act of 1977 (7 U.S.C. 2012(h)).

(c) CONSTRUCTION.—Nothing in this section shall be construed as affecting—

(1) the conditions for eligibility for benefits (including any conditions relating to income or resources);

(2) the rights to challenge determinations regarding eligibility or rights to benefits; and

(3) determinations regarding quality control or error rates.

TITLE II—COMMITTEE ON BANKING AND FINANCIAL SERVICES

SEC. 2001. TABLE OF CONTENTS.

The table of contents for this title is as follows:

TITLE II—COMMITTEE ON BANKING AND FINANCIAL SERVICES

Sec. 2001. Table of contents.
Sec. 2002. Extension of foreclosure avoidance and borrower assistance provisions for FHA single family housing mortgage insurance program.
Sec. 2003. Adjustment of maximum monthly rents for certain dwelling units in new construction and substantial or moderate rehabilitation projects assisted under section 8 rental assistance program.
Sec. 2004. Adjustment of maximum monthly rents for non-turnover dwelling units assisted under section 8 rental assistance program.

SEC. 2002. EXTENSION OF FORECLOSURE AVOIDANCE AND BORROWER ASSISTANCE PROVISIONS FOR FHA SINGLE FAMILY HOUSING MORTGAGE INSURANCE PROGRAM.

Section 407 of The Balanced Budget Downpayment Act, I (12 U.S.C. 1710 note) is amended—

(1) in subsection (c)—

(A) by striking "only"; and

(B) by inserting ", on, or after" after "before"; and

(2) by striking subsection (e).

SEC. 2003. ADJUSTMENT OF MAXIMUM MONTHLY RENTS FOR CERTAIN DWELLING UNITS IN NEW CONSTRUCTION AND SUBSTANTIAL OR MODERATE REHABILITATION PROJECTS ASSISTED UNDER SECTION 8 RENTAL ASSISTANCE PROGRAM.

The third sentence of section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) is amended by inserting before the period at the end the following: ", and during fiscal year 1999 and thereafter".

SEC. 2004. ADJUSTMENT OF MAXIMUM MONTHLY RENTS FOR NON-TURNOVER DWELLING UNITS ASSISTED UNDER SECTION 8 RENTAL ASSISTANCE PROGRAM.

The last sentence of section 8(c)(2)(A) of the United States Housing Act of 1937 is amended by inserting before the period at the end the following: ", and during fiscal year 1999 and thereafter".

TITLE III—COMMITTEE ON COMMERCE-NONMEDICARE

Subtitle A—Nuclear Regulatory Commission Annual Charges

SEC. 3001. NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

Section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by striking "September 30, 1998" and inserting "September 30, 2002".

Subtitle B—Lease of Excess Strategic Petroleum Reserve Capacity

SEC. 3101. LEASE OF EXCESS STRATEGIC PETROLEUM RESERVE CAPACITY.

(a) AMENDMENT.—Part B of title I of the Energy Policy and Conservation Act (42 U.S.C. 6231 et seq.) is amended by adding at the end the following:

"USE OF UNDERUTILIZED FACILITIES

"SEC. 168. (a) AUTHORITY.—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. Petroleum products stored under this section are not part of the Strategic Petroleum Reserve and may be exported without license from the United States.

"(b) PROTECTION OF FACILITIES.—All agreements entered into pursuant to subsection (a) shall contain provisions providing for fees to fully compensate the United States for all costs of storage and removals of petroleum products, including the cost of replacement facilities necessitated as a result of any withdrawals.

"(c) ACCESS TO STORED OIL.—The Secretary shall ensure that agreements to store petroleum products for foreign governments or their representatives do not affect the ability of the United States to withdraw, distribute, or sell petroleum from the Strategic Petroleum Reserve in response to an energy emergency or to the obligations of the United States under the Agreement on an International Energy Program.

"(d) AVAILABILITY OF FUNDS.—Funds collected through the leasing of Strategic Petroleum Reserve facilities authorized by subsection (a) after September 30, 2002, shall be used by the Secretary of Energy without further appropriation for the purchase of oil for, and operation and maintenance costs of, the Strategic Petroleum Reserve.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of part B of title I of the Energy Policy and Conservation Act is amended by adding at the end the following:

"Sec. 168. Use of underutilized facilities.".

Subtitle C—Sale of DOE Assets

SEC. 3201. SALE OF DOE SURPLUS URANIUM ASSETS.

(a) IN GENERAL.—The Secretary of Energy shall, during the period fiscal year 1999 through fiscal year 2002, sell 3.2 million pounds per year of natural and low-enriched uranium that the President has determined is not necessary for national security needs. Such sales shall be—

(1) made for delivery after January 1, 1999;

(2) subject to a determination, for the period fiscal year 1999 through fiscal year 2002, by the Secretary under section 3112(d)(2)(B) of the USEC Privatization Act (42 U.S.C. 2297h-10(d)(2)(B)); and

(3) made at a price not less than the fair market value of the uranium and in a manner that maximizes proceeds to the Treasury.

The Secretary shall receive the proceeds from such sale in the period fiscal year 1999 through fiscal year 2002 and shall deposit such proceeds in the General Fund of the Treasury.

(b) COSTS.—The costs of making the sales required by subsection (a) shall be covered by the unobligated balances of appropriations of the Department of Energy.

Subtitle D—Communications

SEC. 3301. SPECTRUM AUCTIONS.

(a) EXTENSION AND EXPANSION OF AUCTION AUTHORITY.—

(1) AMENDMENTS.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(A) by striking paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) GENERAL AUTHORITY.—If, consistent with the obligations described in paragraph (6)(E), mutually exclusive applications are accepted for any initial license or construction permit which will involve an exclusive use of the electromagnetic spectrum, then the Commission shall grant such license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection.

"(2) EXEMPTIONS.—The competitive bidding authority granted by this subsection shall not apply to licenses or construction permits issued by the Commission—

"(A) that, as the result of the Commission carrying out the obligations described in paragraph (6)(E), are not mutually exclusive;

"(B) for public safety radio services, including private internal radio services used by non-Government entities, that—

"(i) protect the safety of life, health, or property; and

"(ii) are not made commercially available to the public;

"(C) for initial licenses or construction permits assigned by the Commission to existing terrestrial broadcast licensees for new terrestrial digital television services; or

"(D) for public telecommunications services, as defined in section 397(14) of the Communications Act of 1934 (47 U.S.C. 397(14)), when the license application is for channels reserved for noncommercial use.";

(B) in paragraph (3)—

(i) by inserting after the second sentence the following new sentence: "The Commission shall, directly or by contract, provide for the design and conduct (for purposes of testing) of competitive bidding using a contingent combinatorial bidding system that permits prospective bidders to bid on combinations or groups of licenses in a single bid and to enter multiple alternative bids within a single bidding round.";

(ii) by striking "and" at the end of subparagraph (C);

(iii) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(iv) by adding at the end the following new subparagraph:

"(E) ensuring that, in the scheduling of any competitive bidding under this subsection, an adequate period is allowed—

"(i) before issuance of bidding rules, to permit notice and comment on proposed auction procedures; and

"(ii) after issuance of bidding rules, to ensure that interested parties have a sufficient time to develop business plans, assess market conditions, and evaluate the availability of equipment for the relevant services.";

(C) in paragraph (4)—

(i) by striking "and" at the end of subparagraph (D);

(ii) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(iii) by adding at the end the following new subparagraph:

"(F) establish methods by which a minimum bid, in an amount that is more than nominal in relation to the value of the public spectrum resource being made available, will be required to obtain any license or permit being assigned pursuant to the competitive bidding.";

(D) in paragraph (8)—

(i) by striking subparagraph (B); and

(ii) by redesignating subparagraph (C) as subparagraph (B);

(E) in paragraph (11), by striking "September 30, 1998" and inserting "December 31, 2002"; and

(F) in paragraph (13)(F), by striking "September 30, 1998" and inserting "the date of enactment of the Balanced Budget Act of 1997".

(2) CONFORMING AMENDMENT.—Subsection (i) of section 309 of the Communications Act of 1934 (47 U.S.C. 309(i)) is repealed.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1)(A) shall not apply with respect to any license or permit for which the Federal Communications Commission has accepted mutually exclusive applications on or before the date of enactment of this Act.

(b) COMMISSION OBLIGATION TO MAKE ADDITIONAL SPECTRUM AVAILABLE BY AUCTION.—

(1) IN GENERAL.—The Federal Communications Commission shall complete all actions necessary to permit the assignment, by September 30, 2002, by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) of licenses for the use of bands of frequencies that—

(A) individually span not less than 25 megahertz, unless a combination of smaller bands can, notwithstanding the provisions of paragraph (7) of such section, reasonably be expected to produce greater receipts;

(B) in the aggregate span not less than 100 megahertz;

(C) are located below 3 gigahertz;

(D) have not, as of the date of enactment of this Act—

(i) been designated by Commission regulation for assignment pursuant to such section;

(ii) been identified by the Secretary of Commerce pursuant to section 113 of the National Telecommunications and Information Administration Organization Act;

(iii) been allocated for Federal Government use pursuant to section 305 of the Communications Act of 1934 (47 U.S.C. 305);

(iv) been designated in section 3303 of this Act; or

(v) been allocated for unlicensed use pursuant to part 15 of the Commission's regulations (47 C.F.R. Part 15), if the competitive bidding for licenses would interfere with operation of end-user products permitted under such regulations;

(E) notwithstanding section 115(b)(1)(B) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 925(b)(1)(B)) or any proposal pursuant to such section, include frequencies at 1,710–1,755 megahertz;

(F) include frequencies at 2,110–2,150 megahertz; and

(G) include 15 megahertz from within the bands of frequencies at 1,990–2,110 megahertz.

(2) SCHEDULE FOR ASSIGNMENT OF 1,710–1,755 MEGAHERTZ.—The Commission shall commence competitive bidding for the commercial licenses pursuant to paragraph (1)(E) after January 1, 2001. The Commission shall complete the assignment of such commercial licenses, and report to the Congress the total revenues from such competitive bidding, by September 30, 2002.

(3) USE OF BANDS AT 2,110-2,150 MEGAHERTZ.—The Commission shall reallocate spectrum located at 2,110-2,150 megahertz for assignment by competitive bidding unless the Commission determines that auction of other spectrum (A) better serves the public interest, convenience, and necessity, and (B) can reasonably be expected to produce greater receipts. If the Commission makes such a determination, then the Commission shall, within 2 years after the date of enactment of this Act, identify an alternative 40 megahertz, and report to the Congress an identification of such alternative 40 megahertz for assignment by competitive bidding.

(4) USE OF 15 MEGAHERTZ FROM BANDS AT 1,990-2,110 MEGAHERTZ.—The Commission shall reallocate 15 megahertz from spectrum located at 1,990-2,110 megahertz for assignment by competitive bidding unless the President determines such spectrum cannot be reallocated due to the need to protect incumbent Federal systems from interference, and that allocation of other spectrum (A) better serves the public interest, convenience, and necessity, and (B) can reasonably be expected to produce greater receipts. If the President makes such a determination, then the President shall, within 2 years after the date of enactment of this Act, identify alternative bands of frequencies totalling 15 megahertz, and report to the Congress an identification of such alternative bands for assignment by competitive bidding.

(5) CRITERIA FOR REASSIGNMENT.—In making available bands of frequencies for competitive bidding pursuant to paragraph (1), the Commission shall—

(A) seek to promote the most efficient use of the spectrum;

(B) take into account the cost to incumbent licensees of relocating existing uses to other bands of frequencies or other means of communication; and

(C) comply with the requirements of international agreements concerning spectrum allocations.

(6) NOTIFICATION TO NTIA.—The Commission shall notify the Secretary of Commerce if—

(A) the Commission is not able to provide for the effective relocation of incumbent licensees to bands of frequencies that are available to the Commission for assignment; and

(B) the Commission has identified bands of frequencies that are—

(i) suitable for the relocation of such licensees; and

(ii) allocated for Federal Government use, but that could be reallocated pursuant to part B of the National Telecommunications and Information Administration Organization Act (as amended by this Act).

(c) IDENTIFICATION AND REALLOCATION OF FREQUENCIES.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) in section 113, by adding at the end the following new subsection:

"(f) ADDITIONAL REALLOCATION REPORT.—If the Secretary receives a notice from the Commission pursuant to section 3301(b)(3) of the Balanced Budget Act of 1997, the Secretary shall prepare and submit to the President, the Commission, and the Congress a report recommending for reallocation for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), bands of frequencies that are suitable for the uses identified in the Commission's notice. The Commission shall, not later than one year after receipt of such report, prepare, submit to the President and the Congress, and implement, a plan for the immediate allocation and assignment of such frequencies under the 1934 Act to incumbent licencees described in section 3301(b)(3) of the Balanced Budget Act of 1997."; and

(2) in section 114(a)(1), by striking "(a) or (d)(1)" and inserting "(a), (d)(1), or (f)".

(d) IDENTIFICATION AND REALLOCATION OF AUCTIONABLE FREQUENCIES.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) in section 113(b)—

(A) by striking the heading of paragraph (1) and inserting "INITIAL REALLOCATION REPORT";

(B) by inserting "in the first report required by subsection (a)" after "recommend for reallocation" in paragraph (1);

(C) by inserting "or (3)" after "paragraph (1)" each place it appears in paragraph (2); and

(D) by inserting after paragraph (2) the following new paragraph:

"(3) SECOND REALLOCATION REPORT.—In accordance with the provisions of this section, the Secretary shall recommend for reallocation in the second report required by subsection (a), for use other than by Federal Government stations under section 305 of the

1934 Act (47 U.S.C. 305), a band or bands of frequencies that—

"(A) in the aggregate span not less than 20 megahertz;

"(B) individually span not less than 20 megahertz, unless a combination of smaller bands can reasonably be expected to produce greater receipts;

"(C) are located below 3 gigahertz; and

"(D) meet the criteria specified in paragraphs (1) through (5) of subsection (a)."; and

(2) in section 115—

(A) in subsection (b), by striking "the report required by section 113(a)" and inserting "the initial reallocation report required by section 113(a)"; and

(B) by adding at the end the following new subsection:

"(c) ALLOCATION AND ASSIGNMENT OF FREQUENCIES IDENTIFIED IN THE SECOND REALLOCATION REPORT.—With respect to the frequencies made available for reallocation pursuant to section 113(b)(3), the Commission shall, not later than one year after receipt of the second reallocation report required by such section, prepare, submit to the President and the Congress, and implement, a plan for the immediate allocation and assignment under the 1934 Act of all such frequencies in accordance with section 309(j) of such Act.".

SEC. 3302. AUCTION OF RECAPTURED BROADCAST TELEVISION SPECTRUM.

Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended by adding at the end the following new paragraph:

"(14) AUCTION OF RECAPTURED BROADCAST TELEVISION SPECTRUM.—

"(A) LIMITATIONS ON TERMS OF TERRESTRIAL TELEVISION BROADCAST LICENSES.—A television license that authorizes analog television services may not be renewed to authorize such service for a period that extends beyond December 31, 2006. The Commission shall have the authority to grant by regulation an extension of such date to licensees in a market if the Commission determines that more than 5 percent of households in such market continue to rely exclusively on over-the-air terrestrial analog television signals.

"(B) SPECTRUM REVERSION AND RESALE.—

"(i) The Commission shall ensure that, when the authority to broadcast analog television services under a license expires pursuant to subparagraph (A), each licensee shall return spectrum according to the Commission's direction and the Commission shall reclaim such spectrum.

"(ii) Licensees for new services occupying spectrum reclaimed pursuant to clause (i) shall be selected in accordance with this subsection. The Commission shall complete the assignment of such licenses, and report to the Congress the total revenues from such competitive bidding, by September 30, 2002.

"(C) CERTAIN LIMITATIONS ON QUALIFIED BIDDERS PROHIBITED.—In prescribing any regulations relating to the qualification of bidders for spectrum reclaimed pursuant to subparagraph (B)(i), the Commission shall not—

"(i) preclude any party from being a qualified bidder for spectrum that is allocated for any use that includes digital television service on the basis of—

"(I) the Commission's duopoly rule (47 C.F.R. 73.3555(b)); or

"(II) the Commission's newspaper cross-ownership rule (47 C.F.R. 73.3555(d)); or

"(ii) apply either such rule to preclude such a party that is a successful bidder in a competitive bidding for such spectrum from using such spectrum for digital television service.

"(D) DEFINITIONS.—As used in this paragraph:

"(i) The term 'digital television service' means television service provided using digital technology to enhance audio quality and video resolution, as further defined in the Memorandum Opinion, Report, and Order of the Commission entitled 'Advanced Television Systems and Their Impact Upon the Existing Television Service', MM Docket No. 87-268 and any subsequent Commission proceedings dealing with digital television.

"(ii) The term 'analog television service' means service provided pursuant to the transmission standards prescribed by the Commission in section 73.682(a) of its regulation (47 CFR 73.682(a)).".

SEC. 3303. ALLOCATION AND ASSIGNMENT OF NEW PUBLIC SAFETY AND COMMERCIAL LICENSES.

(a) IN GENERAL.—The Federal Communications Commission shall, not later than January 1, 1998, allocate on a national, regional, or market basis, from radio spectrum between 746 megahertz and 806 megahertz—

(1) 24 megahertz of that spectrum for public safety services according to the terms and conditions established by the Commission, unless the Commission determines that the needs for public safety services can be met in particular areas with allocations of less than 24 megahertz; and

(2) the remainder of that spectrum for commercial purposes to be assigned by competitive bidding in accordance with section 309(j).

(b) ASSIGNMENT.—The Commission shall—

(1) assign the licenses for public safety created pursuant to subsection (a) no later than March 31, 1998;

(2) commence competitive bidding for the commercial licenses created pursuant to subsection (a) after January 1, 2001; and

(3) complete competitive bidding for such commercial licenses, and report to the Congress the total revenues from such competitive bidding, by September 30, 2002.

(c) LICENSING OF UNUSED FREQUENCIES FOR PUBLIC SAFETY RADIO SERVICES.—

(1) USE OF UNUSED CHANNELS FOR PUBLIC SAFETY.—It shall be the policy of the Commission, notwithstanding any other provision of this Act or any other law, to waive whatever licensee eligibility and other requirements (including bidding requirements) are applicable in order to permit the use of unassigned frequencies for public safety purposes by a State or local governmental agency upon a showing that—

(A) no other existing satisfactory public safety channel is immediately available to satisfy the requested use;

(B) the proposed use is technically feasible without causing harmful interference to existing stations in the frequency band entitled to protection from such interference under the rules of the Commission; and

(C) use of the channel for public safety purposes is consistent with other existing public safety channel allocations in the geographic area of proposed use.

(2) APPLICABILITY.—Paragraph (1) shall apply to any application that is pending before the Federal Communications Commission, or that is not finally determined under either section 402 or 405 of the Communications Act of 1934 (47 U.S.C. 402, 405) on May 15, 1997, or that is filed after such date.

(d) CONDITIONS ON LICENSES.—With respect to public safety and commercial licenses granted pursuant to this subsection, the Commission shall—

(1) establish interference limits at the boundaries of the spectrum block and service area;

(2) establish any additional technical restrictions necessary to protect full-service analog television service and digital television service during a transition to digital television service; and

(3) permit public safety and commercial licensees—

(A) to aggregate multiple licenses to create larger spectrum blocks and service areas; and

(B) to disaggregate or partition licenses to create smaller spectrum blocks or service areas.

(e) PROTECTION OF QUALIFYING LOW-POWER STATIONS.—After making any allocation or assignment under this section the Commission shall seek to assure that each qualifying low-power television station is assigned a frequency below 746 megahertz to permit the continued operation of such station.

(f) DEFINITIONS.—For purposes of this section:

(1) COMMISSION.—The term "Commission" means the Federal Communications Commission.

(2) DIGITAL TELEVISION SERVICE.—The term "digital television service" means television service provided using digital technology to enhance audio quality and video resolution, as further defined in the Memorandum Opinion, Report, and Order of the Commission entitled 'Advanced Television Systems and Their Impact Upon the Existing Television Service', MM Docket No. 87-268 and any subsequent Commission proceedings dealing with digital television.

(3) ANALOG TELEVISION SERVICE.—The term "analog television service" means services provided pursuant to the transmission standards prescribed by the Commission in section 73.682(a) of its regulation (47 CFR 73.682(a)).

(4) PUBLIC SAFETY SERVICES.—The term "public safety services" means services—

(A) the sole or principal purpose of which is to protect the safety of life, health, or property;

(B) that are provided—

(i) by State or local government entities; or

(ii) by nongovernmental, private organizations that are authorized by a governmental entity whose primary mission is the provision of such services; and

(C) that are not made commercially available to the public by the provider.

(5) SERVICE AREA.—The term "service area" means the geographic area over which a licensee may provide service and is protected from interference.

(6) SPECTRUM BLOCK.—The term "spectrum block" means the range of frequencies over which the apparatus licensed by the Commission is authorized to transmit signals.

(7) QUALIFYING LOW-POWER TELEVISION STATIONS.—A station is a qualifying low-power television station if, during the 90 days preceding the date of enactment of this Act—

(A) such station broadcast a minimum of 18 hours per day;

(B) such station broadcast an average of at least 3 hours per week of programming that was produced within the community of license of such station; and

(C) such station was in compliance with the requirements applicable to low-power television stations.

SEC. 3304. ADMINISTRATIVE PROCEDURES FOR SPECTRUM AUCTIONS.

(a) EXPEDITED PROCEDURES.—The rules governing competitive bidding under this subtitle shall be effective immediately upon publication in the Federal Register notwithstanding section 553(d), 801(a)(3), and 806(a) of title 5, United States Code. Chapter 6 of such title, and sections 3507 and 3512 of title 44, United States Code, shall not apply to such

rules and competitive bidding procedures governing frequencies assigned under this subtitle. Notwithstanding section 309(b) of the Communications Act of 1934 (47 U.S.C. 309(b)), no application for an instrument of authorization for such frequencies shall be granted by the Commission earlier than 7 days following issuance of public notice by the Commission of the acceptance for filing of such application or of any substantial amendment thereto. Notwithstanding section 309(d)(1) of such Act (47 U.S.C. 309(d)(1)), the Commission may specify a period (no less than 5 days following issuance of such public notice) for the filing of petitions to deny any application for an instrument of authorization for such frequencies.

(b) DEADLINE FOR COLLECTION.—The Commission shall conduct the competitive bidding under this subtitle in a manner that ensures that all proceeds of the bidding are deposited in accordance with section 309(j)(8) of the Communications Act of 1934 not later September 30, 2002.

SEC. 3305. UNIVERSAL SERVICE FUND PAYMENT SCHEDULE.

(a) ACCELERATION OF PAYMENTS.—There shall be available in fiscal year 2001 from funds in the Treasury not otherwise appropriated $2,000,000,000 to the universal service fund under part 54 of the Federal Communications Commission's regulations (47 C.F.R. Part 54) in addition to any other revenues required to be collected under such part.

(b) LIMITATION ON EXPENDITURES.—The outlays of the universal service fund under part 54 of the Federal Communications Commission's regulations (47 C.F.R. Part 54) in fiscal year 2002 shall not exceed the amount of revenue required to be collected in such fiscal year, less $2,000,000,000.

SEC. 3306. INQUIRY REQUIRED.

The Federal Communications Commission shall, not later than July 1, 1997, initiate the inquiry required by section 309(j)(12) of the Communications Act of 1934 (47 U.S.C. 309(j)(12)) for the purposes of collecting the information required for its report under each of subparagraphs (A) through (E) of such section, and shall keep the Congress fully and currently informed with respect to the progress of such inquiry.

Subtitle E—Medicaid

SEC. 3400. TABLE OF CONTENTS OF SUBTITLE; REFERENCES.

(a) TABLE OF CONTENTS OF SUBTITLE.—The table of contents of this subtitle is as follows:

Sec. 3400. Table of contents of subtitle; references.

CHAPTER 1—STATE FLEXIBILITY

SUBCHAPTER A—USE OF MANAGED CARE

Sec. 3401. State options to provide benefits through managed care entities.
Sec. 3402. Elimination of 75:25 restriction on risk contracts.
Sec. 3403. Primary care case management services as State option without need for waiver.
Sec. 3404. Change in threshold amount for contracts requiring Secretary's prior approval.

SUBCHAPTER B—PAYMENT METHODOLOGY

Sec. 3411. Flexibility in payment methods for hospital, nursing facility, and ICF/MR services; flexibility for home health.
Sec. 3412. Payment for Federally qualified health center services.
Sec. 3413. Treatment of State taxes imposed on certain hospitals that provide free care.

SUBCHAPTER C—ELIGIBILITY

Sec. 3421. State option of continuous eligibility for 12 months; clarification of State option to cover children.
Sec. 3422. Payment of part or all of Medicare part B premium amount for certain low-income individuals.
Sec. 3423. Penalty for fraudulent eligibility.
Sec. 3424. Treatment of certain settlement payments.

SUBCHAPTER D—PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

Sec. 3431. Establishment of PACE program as medicaid State option.
Sec. 3432. Coverage of PACE under the medicare program.
Sec. 3433. Effective date; transition.
Sec. 3434. Study and reports.

SUBCHAPTER E—BENEFITS

Sec. 3441. Elimination of requirement to pay for private insurance.
Sec. 3442. Permitting same copayments in health maintenance organizations as in fee-for-service.
Sec. 3443. Physician qualification requirements.
Sec. 3444. Elimination of requirement of prior institutionalization with respect to habilitation services furnished under a waiver for home or community-based services.
Sec. 3445. Benefits for services of physician assistants.
Sec. 3446. Study and report on actuarial value of EPSDT benefit.

SUBCHAPTER F—ADMINISTRATION

Sec. 3451. Elimination of duplicative inspection of care requirements for ICFS/MR and mental hospitals.
Sec. 3452. Alternative sanctions for noncompliant ICFS/MR.
Sec. 3453. Modification of MMIS requirements.
Sec. 3454. Facilitating imposition of State alternative remedies on noncompliant nursing facilities.
Sec. 3455. Medically accepted indication.
Sec. 3456. Continuation of State-wide section 1115 medicaid waivers.
Sec. 3457. Authorizing administrative streamlining and privatizing modifications under the medicaid program.
Sec. 3458. Extension of moratorium.

CHAPTER 2—QUALITY ASSURANCE

Sec. 3461. Requirements to ensure quality of and access to care under managed care plans.
Sec. 3462. Solvency standards for certain health maintenance organizations.
Sec. 3463. Application of prudent layperson standard for emergency medical condition and prohibition of gag rule restrictions.
Sec. 3464. Additional fraud and abuse protections in managed care.
Sec. 3465. Grievances under managed care plans.
Sec. 3466. Standards relating to access to obstetrical and gynecological services under managed care plans.

CHAPTER 3—FEDERAL PAYMENTS

Sec. 3471. Reforming disproportionate share payments under State medicaid programs.
Sec. 3472. Additional funding for State emergency health services furnished to undocumented aliens.

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this subtitle an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference is considered to be made to that section or other provision of the Social Security Act.

CHAPTER 1—STATE FLEXIBILITY

Subchapter A—Use of Managed Care

SEC. 3401. STATE OPTIONS TO PROVIDE BENEFITS THROUGH MANAGED CARE ENTITIES.

(a) IN GENERAL.—Section 1915(a) (42 U.S.C. 1396n(a)) is amended—

(1) by striking "or" at the end of paragraph (1),

(2) by striking the period at the end of paragraph (2) and inserting "; or", and

(3) by adding at the end the following new paragraph:

"(3) requires individuals, other than special needs children (as defined in subsection (i)), eligible for medical assistance for items or services under the State plan to enroll with an entity that provides or arranges for services for enrollees under a contract pursuant to section 1903(m), or with a primary care case manager (as defined in section 1905(t)(2)) (or restricts the number of provider agreements with those entities under the State plan, consistent with quality of care), if—

"(A) the State permits an individual to choose the manager or managed care entity from among the managed care organizations and primary care case providers who meet the requirements of this title;

"(B)(i) individuals are permitted to choose between at least 2 of those entities, or 2 of the managers, or an entity and a manager, each of which has sufficient capacity to provide services to enrollees; or

"(ii) with respect to a rural area—

"(I) individuals who are required to enroll with a single entity are afforded the option to obtain covered services by an alternative provider; and

"(II) an individual who is offered no alternative to a single entity or manager is given a choice between at least two providers within the entity or through the manager;

"(C) no individual who is an Indian (as defined in section 4 of the Indian Health Care Improvement Act of 1976) is required to enroll in any entity that is not one of the following (and only if such entity is participating under the plan): the Indian Health Service, an Indian health program operated by an Indian tribe or tribal organization pursuant to a contract, grant, cooperative agreement, or compact with the Indian Health Service pursuant to the Indian Self-Determination Act (25 U.S.C. 450 et seq.), or an urban Indian health program operated by an urban Indian organization pursuant to a grant or contract with the Indian Health Service pursuant to title V of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.);

"(D) the State restricts those individuals from changing their enrollment without cause for periods no longer than six months (and permits enrollees to change enrollment for cause at any time);

"(E) the restrictions do not apply to providers of family planning services (as defined in section 1905(a)(4)(C)) and are not conditions for payment of medicare cost sharing pursuant to section 1905(p)(3); and

"(F) prior to establishing an enrollment requirement under this paragraph, the State agency provides for public notice and comment pursuant to requirements established by the Secretary.".

(b) SPECIAL NEEDS CHILDREN DEFINED.—Section 1915 (42 U.S.C. 1396n) is amended by adding at the end the following:

"(i) For purposes of subsection (a)(3), the term 'special needs child' means an individual under 19 years of age who—

"(1) is eligible for supplemental security income under title XVI,

"(2) is described in section 501(a)(1)(D),

"(3) is described in section 1902(e)(3), or

"(4) is in foster care or otherwise in an out-of-home placement.".

(c) CONFORMING AMENDMENT TO RISK-BASED ARRANGEMENTS.—Section 1903(m)(2) (42 U.S.C. 1396b(m)(2)) is amended—

(1) in paragraph (A)(vi)—

(A) by striking "(I) except as provided under subparagraph (F),"; and

(B) by striking all that follows "to terminate such enrollment" and inserting "in accordance with the provisions of subparagraph (F);"; and

(2) in subparagraph (F)—

(A) by striking "In the case of—" and all that follows through "a State plan" and inserting "A State plan", and

(B) by striking "(A)(vi)(I)" and inserting "(A)(vi)".

(d) EFFECTIVE DATE.—The amendments made by this section take effect on the date of the enactment of this Act.

SEC. 3402. ELIMINATION OF 75:25 RESTRICTION ON RISK CONTRACTS.

(a) 75 PERCENT LIMIT ON MEDICARE AND MEDICAID ENROLLMENT.—

(1) IN GENERAL.—Section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)) is amended by striking clause (ii).

(2) CONFORMING AMENDMENTS.—Section 1903(m)(2) (42 U.S.C. 1396b(m)(2)) is amended—

(A) by striking subparagraphs (C), (D), and (E); and

(B) in subparagraph (G), by striking "clauses (i) and (ii)" and inserting "clause (i)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date of the enactment of this Act.

SEC. 3403. PRIMARY CARE CASE MANAGEMENT SERVICES AS STATE OPTION WITHOUT NEED FOR WAIVER.

(a) OPTIONAL COVERAGE AS PART OF MEDICAL ASSISTANCE.—Section 1905(a) (42 U.S.C. 1396d(a)) is amended—

(1) by striking "and" at the end of paragraph (24);

(2) by redesignating paragraph (25) as paragraph (26) and by striking the period at the end of such paragraph and inserting a comma; and

(3) by inserting after paragraph (24) the following new paragraph:

"(25) primary care case management services (as defined in subsection (t)); and".

(b) PRIMARY CARE CASE MANAGEMENT SERVICES DEFINED.—Section 1905 (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

"(t)(1) The term 'primary care case management services' means case-management related services (including coordination and monitoring of health care services) provided by a primary care case manager under a primary care case management contract.

"(2)(A) The term 'primary care case manager' means, with respect to a primary care case management contract, a provider described in subparagraph (B).

"(B) A provider described in this subparagraph is a provider that provides primary care case management services under contract and is—

"(i) a physician, a physician group practice, or an entity employing or having other arrangements with physicians; or

"(ii) at State option—

"(I) a nurse practitioner (as described in section 1905(a)(21));

"(II) a certified nurse-midwife (as defined in section 1861(gg)); or

"(III) a physician assistant (as defined in section 1861(aa)(5)).

"(3) The term 'primary care case management contract' means a contract with a State agency under which a primary care case manager undertakes to locate, coordinate and monitor covered primary care (and such other covered services as may be specified under the contract) to all individuals enrolled with the primary care case manager, and which provides for—

"(A) reasonable and adequate hours of operation, including 24-hour availability of information, referral, and treatment with respect to medical emergencies;

"(B) restriction of enrollment to individuals residing sufficiently near a service delivery site of the entity to be able to reach that site within a reasonable time using available and affordable modes of transportation;

"(C) employment of, or contracts or other arrangements with, sufficient numbers of physicians and other appropriate health care professionals to ensure that services under the contract can be furnished to enrollees promptly and without compromise to quality of care;

"(D) a prohibition on discrimination on the basis of health status or requirements for health services in enrollment, disenrollment, or reenrollment of individuals eligible for medical assistance under this title; and

"(E) a right for an enrollee to terminate enrollment without cause during the first month of each enrollment period, which period shall not exceed six months in duration, and to terminate enrollment at any time for cause.

"(4) For purposes of this subsection, the term 'primary care' includes all health care services customarily provided in accordance with State licensure and certification laws and regulations, and all laboratory services customarily provided by or through, a general practitioner, family medicine physician, internal medicine physician, obstetrician/gynecologist, or pediatrician.".

(c) CONFORMING AMENDMENTS.—Section 1902 (42 U.S.C. 1396a) is amended—

(1) in subsection (a)(10)(C)(iv), by striking "(24)" and inserting "(25)", and

(2) in subsection (j), by striking "(25)" and inserting "(26)".

(d) EFFECTIVE DATE.—The amendments made by this section apply to primary care case management services furnished on or after October 1, 1997.

SEC. 3404. CHANGE IN THRESHOLD AMOUNT FOR CONTRACTS REQUIRING SECRETARY'S PRIOR APPROVAL.

(a) IN GENERAL.—Section 1903(m)(2)(A)(iii) (42 U.S.C. 1396b(m)(2)(A)(iii)) is amended by striking "$100,000" and inserting "$1,000,000 for 1998 and, for a subsequent year, the amount established under this clause for the previous year increased by the percentage increase in the consumer price index for all urban consumers over the previous year".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contracts entered into or renewed on or after the date of the enactment of this Act.

Subchapter B—Payment Methodology

SEC. 3411. FLEXIBILITY IN PAYMENT METHODS FOR HOSPITAL, NURSING FACILITY, AND ICF/MR SERVICES; FLEXIBILITY FOR HOME HEALTH.

(a) REPEAL OF BOREN REQUIREMENTS.—Section 1902(a)(13) (42 U.S.C. 1396a(a)) is amended—

(1) by amending subparagraphs (A) and (B) to read as follows:

"(A) for a public process for determination of rates of payment under the plan for hospital services, nursing facility services, and services of intermediate care facilities for the mentally retarded under which—

"(i) proposed rates are published, and providers, beneficiaries and their representatives, and other concerned State residents are given a reasonable opportunity for review and comment on the proposed rates;

"(ii) final rates are published, together with justifications, and

"(iii) in the case of hospitals, take into account (in a manner consistent with section 1923) the situation of hospitals which serve a disproportionate number of low income patients with special needs;

"(B) that the State shall provide assurances satisfactory to the Secretary that the average level of payments under the plan for nursing facility services (as determined on an aggregate per resident-day basis) and the level of payments under the plan for inpatient hospital services (as determined on an aggregate hospital payment basis) furnished during the 18-month period beginning October 1, 1997, is not less than the average level of payments that would be made under the plan during such 18-month period for such respective services (determined on such basis) based on rates or payment basis in effect as of May 1, 1997;"; and

(2) by striking subparagraph (C).

(b) REPEAL OF REQUIREMENTS RELATING TO HOME HEALTH SERVICES.—Such section is further amended—

(1) by adding "and" at the end of subparagraph (D),

(2) by striking "and" at the end of subparagraph (E), and

(3) by striking subparagraph (F).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payment for items and services furnished on or after the date of the enactment of this Act.

SEC. 3412. PAYMENT FOR CENTER AND CLINIC SERVICES.

(a) PHASE-OUT OF PAYMENT BASED ON REASONABLE COSTS.—Section 1902(a)(13)(E) (42 U.S.C. 1396a(a)(13)(E)) is amended by inserting "(or 95 percent for services furnished during fiscal year 2000, 90 percent for service furnished during fiscal year 2001, and 85 percent for services furnished during fiscal year 2002)" after "100 percent".

(b) TRANSITIONAL SUPPLEMENTAL PAYMENT FOR SERVICES FURNISHED UNDER CERTAIN MANAGED CARE CONTRACTS.—

(1) IN GENERAL.—Section 1902(a)(13)(E) is further amended—

(A) by inserting "(i)" after "(E)", and

(B) by inserting before the semicolon at the end the following: "and (ii) in carrying out clause (i) in the case of services furnished by a federally qualified health center or a rural health clinic pursuant to a contract between the center and a health maintenance organization under section 1903(m), for payment by the State of a supplemental payment equal to the amount (if any) by which the amount determined under clause (i) exceeds the amount of the payments provided under such contract".

(2) CONFORMING AMENDMENT TO MANAGED CARE CONTRACT REQUIREMENT.—Clause (ix) of section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)) is amended to read as follows:

"(ix) such contract provides, in the case of an entity that has entered into a contract for the provision of services with a federally qualified health center or a rural health clinic, that the entity shall provide payment

that is not less than the level and amount of payment which the entity would make for the services if the services were furnished by a provider which is not a federally qualified health center or a rural health clinic;".

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1997.

(c) END OF TRANSITIONAL PAYMENT RULES.—Effective for services furnished on or after October 1, 2002—

(1) subparagraph (E) of section 1902(a)(13) (42 U.S.C. 1396a(a)(13)) is repealed, and

(2) clause (ix) of section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)) is repealed.

(d) FLEXIBILITY IN COVERAGE OF NON-FREE-STANDING LOOK-ALIKES.—

(1) IN GENERAL.—Section 1905(l)(2)(B)(iii) (42 U.S.C. 1396d(l)(2)(B)(iii)) is amended by inserting "and is not other than an entity that is owned, controlled, or operated by another provider" after "such a grant".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to service furnished on and after the date of the enactment of this Act.

(e) GAO REPORT.—By not later than February 1, 2001, the Comptroller General shall submit to Congress a report on the impact of the amendments made by this section on access to health care for medicaid beneficiaries and the uninsured served at health centers and rural health clinics and the ability of health centers and rural health clinics to become integrated in a managed care system.

SEC. 3413. TREATMENT OF STATE TAXES IMPOSED ON CERTAIN HOSPITALS THAT PROVIDE FREE CARE.

(a) EXCEPTION FROM TAX DOES NOT DISQUALIFY AS BROAD-BASED TAX.—Section 1903(w)(3) (42 U.S.C. 1396b(w)(3)) is amended—

(1) in subparagraph (B), by striking "and (E)" and inserting "(E), and (F)", and

(2) by adding at the end the following:

"(F) In no case shall a tax not qualify as a broad-based health care related tax under this paragraph because it does not apply to a hospital that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and that does not accept payment under the State plan under this title or under title XVIII.".

(b) REDUCTION IN FEDERAL FINANCIAL PARTICIPATION IN CASE OF IMPOSITION OF TAX.—Section 1903(b) (42 U.S.C. 1396b(b)) is amended by adding at the end the following:

"(4) Notwithstanding the preceding provisions of this section, the amount determined under subsection (a)(1) for any State shall be decreased in a quarter by the amount of any health care related taxes (described in section 1902(w)(3)(A)) that are imposed on a hospital described in subsection (w)(3)(F) in that quarter.".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxes imposed before, on, or after the date of the enactment of this Act and the amendment made by subsection (b) shall apply to taxes imposed on or after such date.

Subchapter C—Eligibility

SEC. 3421. STATE OPTION OF CONTINUOUS ELIGIBILITY FOR 12 MONTHS; CLARIFICATION OF STATE OPTION TO COVER CHILDREN.

(a) CONTINUOUS ELIGIBILITY OPTION.—Section 1902(e) (42 U.S.C. 1396a(e)) is amended by adding at the end the following new paragraph:

"(12) At the option of the State, the plan may provide that an individual who is under an age specified by the State (not to exceed 19 years of age) and who is determined to be eligible for benefits under a State plan approved under this title under subsection (a)(10)(A) shall remain eligible for those benefits until the earlier of—

"(A) the end of a period (not to exceed 12 months) following the determination; or

"(B) the time that the individual exceeds that age.".

(b) CLARIFICATION OF STATE OPTION TO COVER ALL CHILDREN UNDER 19 YEARS OF AGE.—Section 1902(l)(1)(D) (42 U.S.C. 1396a(l)(1)(D)) is amended by inserting "(or, at the option of a State, after any earlier date)" after "children born after September 30, 1983".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance for items and services furnished on or after October 1, 1997.

SEC. 3422. PAYMENT OF PART OR ALL OF MEDICARE PART B PREMIUM FOR CERTAIN LOW-INCOME INDIVIDUALS.

(a) ELIGIBILITY.—Section 1902(a)(10)(E) (42 U.S.C. 1396a(a)(10)(E)) is amended—

(1) by striking "and" at the end of clause (ii),

(2) in clause (iii), by striking "and 120 percent in 1995 and years thereafter" and inserting "120 percent in 1995, 1996, and 1997, and 135 percent in 1998 and years thereafter"; and

(3) by inserting after clause (iii) the following:

"(iv) subject to section 1905(p)(4), for making medical assistance available for the portion of medicare cost sharing described in section 1905(p)(3)(A)(ii) that is attributable to the application under section 1839(a)(5) of section 1833(d)(2) for individuals who would be described in clause (iii) but for the fact that their income exceeds 135 percent, but is less than 175 percent, of the official poverty line (referred to in section 1905(p)(2)) for a family of the size involved; and".

(b) 100 PERCENT FEDERAL PAYMENT.—The third sentence of section 1905(b) (42 U.S.C. 1396d(b)) is amended by inserting "and with respect to amounts expended for medical assistance described in section 1902(a)(10)(E)(iii) for individuals described in such section whose income is equal to or exceeds 120 percent of the official poverty line and with respect to amounts expended for medical assistance described in section 1902(a)(10)(E)(iv) for individuals described in such section" before the period at the end.

SEC. 3423. PENALTY FOR FRAUDULENT ELIGIBILITY.

Section 1128B(a) (42 U.S.C. 1320a-7b(a)), as amended by section 217 of the Health Insurance Portability and Accountability Act of 1996, is amended—

(1) by amending paragraph (6) to read as follows:

"(6) for a fee knowingly and willfully counsels or assists an individual to dispose of assets (including by any transfer in trust) in order for the individual to become eligible for medical assistance under a State plan under title XIX, if disposing of the assets results in the imposition of a period of ineligibility for such assistance under section 1917(c),"; and

(2) in clause (ii) of the matter following such paragraph, by striking "failure, or conversion by any other person" and inserting "failure, conversion, or provision of counsel or assistance by any other person".

SEC. 3424. TREATMENT OF CERTAIN SETTLEMENT PAYMENTS.

Notwithstanding any other provision of law, the payments made from any fund established pursuant to the settlement in the case of In re Factor VIII or IX Concentrate Blood Products Litigation, MDL-986, no. 93-C7452 (N.D. Ill.) shall not be considered income or resources in determining eligibility for, or the amount of benefits under, a State plan of medical assistance approved under title XIX of the Social Security Act.

Subchapter D—Programs of All-inclusive Care for the Elderly (PACE)

SEC. 3431. ESTABLISHMENT OF PACE PROGRAM AS MEDICAID STATE OPTION.

(a) IN GENERAL.—Title XIX is amended—

(1) in section 1905(a) (42 U.S.C. 1396d(a)), as amended by section 3403(a)—

(A) by striking "and" at the end of paragraph (25);

(B) by redesignating paragraph (26) as paragraph (27); and

(C) by inserting after paragraph (25) the following new paragraph:

"(26) services furnished under a PACE program under section 1932 to PACE program eligible individuals enrolled under the program under such section; and";

(2) by redesignating section 1932 as section 1933; and

(3) by inserting after section 1931 the following new section:

"PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

"SEC. 1932. (a) OPTION.—

"(1) IN GENERAL.—A State may elect to provide medical assistance under this section with respect to PACE program services to PACE program eligible individuals who are eligible for medical assistance under the State plan and who are enrolled in a PACE program under a PACE program agreement. Such individuals need not be eligible for benefits under part A, or enrolled under part B, of title XVIII to be eligible to enroll under this section. In the case of an individual enrolled with a PACE program pursuant to such an election—

"(A) the individual shall receive benefits under the plan solely through such program, and

"(B) the PACE provider shall receive payment in accordance with the PACE program agreement for provision of such benefits.

A State may limit through its PACE program agreement the number of individuals who may be enrolled in a PACE program under the State plan.

"(2) PACE PROGRAM DEFINED.—For purposes of this section and section 1894, the term 'PACE program' means a program of all-inclusive care for the elderly that meets the following requirements:

"(A) OPERATION.—The entity operating the program is a PACE provider (as defined in paragraph (3)).

"(B) COMPREHENSIVE BENEFITS.—The program provides comprehensive health care services to PACE program eligible individuals in accordance with the PACE program agreement and regulations under this section.

"(C) TRANSITION.—In the case of an individual who is enrolled under the program under this section and whose enrollment ceases for any reason (including the individual no longer qualifies as a PACE program eligible individual, the termination of a PACE program agreement, or otherwise), the program provides assistance to the individual in obtaining necessary transitional care through appropriate referrals and making the individual's medical records available to new providers.

"(3) PACE PROVIDER DEFINED.—

"(A) IN GENERAL.—For purposes of this section, the term 'PACE provider' means an entity that—

"(i) subject to subparagraph (B), is (or is a distinct part of) a public entity or a private,

nonprofit entity organized for charitable purposes under section 501(c)(3) of the Internal Revenue Code of 1986, and

"(ii) has entered into a PACE program agreement with respect to its operation of a PACE program.

"(B) TREATMENT OF PRIVATE, FOR-PROFIT PROVIDERS.—Clause (i) of subparagraph (A) shall not apply—

"(i) to entities subject to a demonstration project waiver under subsection (h); and

"(ii) after the date the report under section 4014(b) of the Balanced Budget Act of 1997 is submitted, unless the Secretary determines that any of the findings described in subparagraph (A), (B), (C) or (D) of paragraph (2) of such section are true.

"(4) PACE PROGRAM AGREEMENT DEFINED.—For purposes of this section, the term 'PACE program agreement' means, with respect to a PACE provider, an agreement, consistent with this section, section 1894 (if applicable), and regulations promulgated to carry out such sections, between the PACE provider, the Secretary, and a State administering agency for the operation of a PACE program by the provider under such sections.

"(5) PACE PROGRAM ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this section, the term 'PACE program eligible individual' means, with respect to a PACE program, an individual who—

"(A) is 55 years of age or older;

"(B) subject to subsection (c)(4), is determined under subsection (c) to require the level of care required under the State medicaid plan for coverage of nursing facility services;

"(C) resides in the service area of the PACE program; and

"(D) meets such other eligibility conditions as may be imposed under the PACE program agreement for the program under subsection (e)(2)(A)(ii).

"(6) PACE PROTOCOL.—For purposes of this section, the term 'PACE protocol' means the Protocol for the Program of All-inclusive Care for the Elderly (PACE), as published by On Lok, Inc., as of April 14, 1995.

"(7) PACE DEMONSTRATION WAIVER PROGRAM DEFINED.—For purposes of this section, the term 'PACE demonstration waiver program' means a demonstration program under either of the following sections (as in effect before the date of their repeal):

"(A) Section 603(c) of the Social Security Amendments of 1983 (Public Law 98-21), as extended by section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272).

"(B) Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 (Public Law 99-509).

"(8) STATE ADMINISTERING AGENCY DEFINED.—For purposes of this section, the term 'State administering agency' means, with respect to the operation of a PACE program in a State, the agency of that State (which may be the single agency responsible for administration of the State plan under this title in the State) responsible for administering PACE program agreements under this section and section 1894 in the State.

"(9) TRIAL PERIOD DEFINED.—

"(A) IN GENERAL.—For purposes of this section, the term 'trial period' means, with respect to a PACE program operated by a PACE provider under a PACE program agreement, the first 3 contract years under such agreement with respect to such program.

"(B) TREATMENT OF ENTITIES PREVIOUSLY OPERATING PACE DEMONSTRATION WAIVER PROGRAMS.—Each contract year (including a year occurring before the effective date of this section) during which an entity has operated a PACE demonstration waiver program shall be counted under subparagraph (A) as a contract year during which the entity operated a PACE program as a PACE provider under a PACE program agreement.

"(10) REGULATIONS.—For purposes of this section, the term 'regulations' refers to interim final or final regulations promulgated under subsection (f) to carry out this section and section 1894.

"(b) SCOPE OF BENEFITS; BENEFICIARY SAFEGUARDS.—

"(1) IN GENERAL.—Under a PACE program agreement, a PACE provider shall—

"(A) provide to PACE program eligible individuals, regardless of source of payment and directly or under contracts with other entities, at a minimum—

"(i) all items and services covered under title XVIII (for individuals enrolled under section 1894) and all items and services covered under this title, but without any limitation or condition as to amount, duration, or scope and without application of deductibles, copayments, coinsurance, or other cost-sharing that would otherwise apply under such title or this title, respectively; and

"(ii) all additional items and services specified in regulations, based upon those required under the PACE protocol;

"(B) provide such enrollees access to necessary covered items and services 24 hours per day, every day of the year;

"(C) provide services to such enrollees through a comprehensive, multidisciplinary health and social services delivery system which integrates acute and long-term care services pursuant to regulations; and

"(D) specify the covered items and services that will not be provided directly by the entity, and to arrange for delivery of those items and services through contracts meeting the requirements of regulations.

"(2) QUALITY ASSURANCE; PATIENT SAFEGUARDS.—The PACE program agreement shall require the PACE provider to have in effect at a minimum—

"(A) a written plan of quality assurance and improvement, and procedures implementing such plan, in accordance with regulations, and

"(B) written safeguards of the rights of enrolled participants (including a patient bill of rights and procedures for grievances and appeals) in accordance with regulations and with other requirements of this title and Federal and State law designed for the protection of patients.

"(c) ELIGIBILITY DETERMINATIONS.—

"(1) IN GENERAL.—The determination of whether an individual is a PACE program eligible individual—

"(A) shall be made under and in accordance with the PACE program agreement, and

"(B) who is entitled to medical assistance under this title, shall be made (or who is not so entitled, may be made) by the State administering agency.

"(2) CONDITION.—An individual is not a PACE program eligible individual (with respect to payment under this section) unless the individual's health status has been determined, in accordance with regulations, to be comparable to the health status of individuals who have participated in the PACE demonstration waiver programs. Such determination shall be based upon information on health status and related indicators (such as medical diagnoses and measures of activities of daily living, instrumental activities of daily living, and cognitive impairment) that are part of a uniform minimum data set collected by PACE providers on potential eligible individuals.

"(3) ANNUAL ELIGIBILITY RECERTIFICATIONS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the determination described in subsection (a)(5)(B) for an individual shall be reevaluated at least once a year.

"(B) EXCEPTION.—The requirement of annual reevaluation under subparagraph (A) may be waived during a period in accordance with regulations in those cases where the State administering agency determines that there is no reasonable expectation of improvement or significant change in an individual's condition during the period because of the advanced age, severity of the advanced age, severity of chronic condition, or degree of impairment of functional capacity of the individual involved.

"(4) CONTINUATION OF ELIGIBILITY.—An individual who is a PACE program eligible individual may be deemed to continue to be such an individual notwithstanding a determination that the individual no longer meets the requirement of subsection (a)(5)(B) if, in accordance with regulations, in the absence of continued coverage under a PACE program the individual reasonably would be expected to meet such requirement within the succeeding 6-month period.

"(5) ENROLLMENT; DISENROLLMENT.—The enrollment and disenrollment of PACE program eligible individuals in a PACE program shall be pursuant to regulations and the PACE program agreement and shall permit enrollees to voluntarily disenroll without cause at any time.

"(d) PAYMENTS TO PACE PROVIDERS ON A CAPITATED BASIS.—

"(1) IN GENERAL.—In the case of a PACE provider with a PACE program agreement under this section, except as provided in this subsection or by regulations, the State shall make prospective monthly payments of a capitation amount for each PACE program eligible individual enrolled under the agreement under this section.

"(2) CAPITATION AMOUNT.—The capitation amount to be applied under this subsection for a provider for a contract year shall be an amount specified in the PACE program agreement for the year. Such amount shall be an amount, specified under the PACE agreement, which is less than the amount that would otherwise have been made under the State plan if the individuals were not so enrolled and shall be adjusted to take into account the comparative frailty of PACE enrollees and such other factors as the Secretary determines to be appropriate. The payment under this section shall be in addition to any payment made under section 1894 for individuals who are enrolled in a PACE program under such section.

"(e) PACE PROGRAM AGREEMENT.—

"(1) REQUIREMENT.—

"(A) IN GENERAL.—The Secretary, in close cooperation with the State administering agency, shall establish procedures for entering into, extending, and terminating PACE program agreements for the operation of PACE programs by entities that meet the requirements for a PACE provider under this section, section 1894, and regulations.

"(B) NUMERICAL LIMITATION.—

"(i) IN GENERAL.—The Secretary shall not permit the number of PACE providers with which agreements are in effect under this section or under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 to exceed—

"(I) 40 as of the date of the enactment of this section, or

"(II) as of each succeeding anniversary of such date, the numerical limitation under

this subparagraph for the preceding year plus 20.

Subclause (II) shall apply without regard to the actual number of agreements in effect as of a previous anniversary date.

"(ii) TREATMENT OF CERTAIN PRIVATE, FOR-PROFIT PROVIDERS.—The numerical limitation in clause (i) shall not apply to a PACE provider that—

"(I) is operating under a demonstration project waiver under subsection (h), or

"(II) was operating under such a waiver and subsequently qualifies for PACE provider status pursuant to subsection (a)(3)(B)(ii).

"(2) SERVICE AREA AND ELIGIBILITY.—

"(A) IN GENERAL.—A PACE program agreement for a PACE program—

"(i) shall designate the service area of the program;

"(ii) may provide additional requirements for individuals to qualify as PACE program eligible individuals with respect to the program;

"(iii) shall be effective for a contract year, but may be extended for additional contract years in the absence of a notice by a party to terminate and is subject to termination by the Secretary and the State administering agency at any time for cause (as provided under the agreement);

"(iv) shall require a PACE provider to meet all applicable State and local laws and requirements; and

"(v) shall have such additional terms and conditions as the parties may agree to consistent with this section and regulations.

"(B) SERVICE AREA OVERLAP.—In designating a service area under a PACE program agreement under subparagraph (A)(i), the Secretary (in consultation with the State administering agency) may exclude from designation an area that is already covered under another PACE program agreement, in order to avoid unnecessary duplication of services and avoid impairing the financial and service viability of an existing program.

"(3) DATA COLLECTION.—

"(A) IN GENERAL.—Under a PACE program agreement, the PACE provider shall—

"(i) collect data,

"(ii) maintain, and afford the Secretary and the State administering agency access to, the records relating to the program, including pertinent financial, medical, and personnel records, and

"(iii) make to the Secretary and the State administering agency reports that the Secretary finds (in consultation with State administering agencies) necessary to monitor the operation, cost, and effectiveness of the PACE program under this title and title XVIII.

"(B) REQUIREMENTS DURING TRIAL PERIOD.—During the first three years of operation of a PACE program (either under this section or under a PACE demonstration waiver program), the PACE provider shall provide such additional data as the Secretary specifies in regulations in order to perform the oversight required under paragraph (4)(A).

"(4) OVERSIGHT.—

"(A) ANNUAL, CLOSE OVERSIGHT DURING TRIAL PERIOD.—During the trial period (as defined in subsection (a)(9)) with respect to a PACE program operated by a PACE provider, the Secretary (in cooperation with the State administering agency) shall conduct a comprehensive annual review of the operation of the PACE program by the provider in order to assure compliance with the requirements of this section and regulations. Such a review shall include—

"(i) an on-site visit to the program site;

"(ii) comprehensive assessment of a provider's fiscal soundness;

"(iii) comprehensive assessment of the provider's capacity to provide all PACE services to all enrolled participants;

"(iv) detailed analysis of the entity's substantial compliance with all significant requirements of this section and regulations; and

"(v) any other elements the Secretary or State agency considers necessary or appropriate.

"(B) CONTINUING OVERSIGHT.—After the trial period, the Secretary (in cooperation with the State administering agency) shall continue to conduct such review of the operation of PACE providers and PACE programs as may be appropriate, taking into account the performance level of a provider and compliance of a provider with all significant requirements of this section and regulations.

"(C) DISCLOSURE.—The results of reviews under this paragraph shall be reported promptly to the PACE provider, along with any recommendations for changes to the provider's program, and shall be made available to the public upon request.

"(5) TERMINATION OF PACE PROVIDER AGREEMENTS.—

"(A) IN GENERAL.—Under regulations—

"(i) the Secretary or a State administering agency may terminate a PACE program agreement for cause, and

"(ii) a PACE provider may terminate such an agreement after appropriate notice to the Secretary, the State agency, and enrollees.

"(B) CAUSES FOR TERMINATION.—In accordance with regulations establishing procedures for termination of PACE program agreements, the Secretary or a State administering agency may terminate a PACE program agreement with a PACE provider for, among other reasons, the fact that—

"(i) the Secretary or State administering agency determines that—

"(I) there are significant deficiencies in the quality of care provided to enrolled participants; or

"(II) the provider has failed to comply substantially with conditions for a program or provider under this section or section 1894; and

"(ii) the entity has failed to develop and successfully initiate, within 30 days of the date of the receipt of written notice of such a determination, and continue implementation of a plan to correct the deficiencies.

"(C) TERMINATION AND TRANSITION PROCEDURES.—An entity whose PACE provider agreement is terminated under this paragraph shall implement the transition procedures required under subsection (a)(2)(C).

"(6) SECRETARY'S OVERSIGHT; ENFORCEMENT AUTHORITY.—

"(A) IN GENERAL.—Under regulations, if the Secretary determines (after consultation with the State administering agency) that a PACE provider is failing substantially to comply with the requirements of this section and regulations, the Secretary (and the State administering agency) may take any or all of the following actions:

"(i) Condition the continuation of the PACE program agreement upon timely execution of a corrective action plan.

"(ii) Withhold some or all further payments under the PACE program agreement under this section or section 1894 with respect to PACE program services furnished by such provider until the deficiencies have been corrected.

"(iii) Terminate such agreement.

"(B) APPLICATION OF INTERMEDIATE SANCTIONS.—Under regulations, the Secretary may provide for the application against a PACE provider of remedies described in section 1857(f)(2) (or, for periods before January 1, 1999, section 1876(i)(6)(B)) or 1903(m)(6)(B) in the case of violations by the provider of the type described in section 1857(f)(1) (or 1876(i)(6)(A) for such periods) or 1903(m)(6)(A), respectively (in relation to agreements, enrollees, and requirements under section 1894 or this section, respectively).

"(7) PROCEDURES FOR TERMINATION OR IMPOSITION OF SANCTIONS.—Under regulations, the provisions of section 1857(g) (or for periods before January 1, 1999, section 1876(i)(9)) shall apply to termination and sanctions respecting a PACE program agreement and PACE provider under this subsection in the same manner as they apply to a termination and sanctions with respect to a contract and a MedicarePlus organization under part C (or for such periods an eligible organization under section 1876).

"(8) TIMELY CONSIDERATION OF APPLICATIONS FOR PACE PROGRAM PROVIDER STATUS.—In considering an application for PACE provider program status, the application shall be deemed approved unless the Secretary, within 90 days after the date of the submission of the application to the Secretary, either denies such request in writing or informs the applicant in writing with respect to any additional information that is needed in order to make a final determination with respect to the application. After the date the Secretary receives such additional information, the application shall be deemed approved unless the Secretary, within 90 days of such date, denies such request.

"(f) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall issue interim final or final regulations to carry out this section and section 1894.

"(2) USE OF PACE PROTOCOL.—

"(A) IN GENERAL.—In issuing such regulations, the Secretary shall, to the extent consistent with the provisions of this section, incorporate the requirements applied to PACE demonstration waiver programs under the PACE protocol.

"(B) FLEXIBILITY.—The Secretary (in close consultation with State administering agencies) may modify or waive such provisions of the PACE protocol in order to provide for reasonable flexibility in adapting the PACE service delivery model to the needs of particular organizations (such as those in rural areas or those that may determine it appropriate to use non-staff physicians accordingly to State licensing law requirements) under this section and section 1932 where such flexibility is not inconsistent with and would not impair the essential elements, objectives, and requirements of the this section, including—

"(i) the focus on frail elderly qualifying individuals who require the level of care provided in a nursing facility;

"(ii) the delivery of comprehensive, integrated acute and long-term care services;

"(iii) the interdisciplinary team approach to care management and service delivery;

"(iv) capitated, integrated financing that allows the provider to pool payments received from public and private programs and individuals; and

"(v) the assumption by the provider over time of full financial risk.

"(3) APPLICATION OF CERTAIN ADDITIONAL BENEFICIARY AND PROGRAM PROTECTIONS.—

"(A) IN GENERAL.—In issuing such regulations and subject to subparagraph (B), the Secretary may apply with respect to PACE programs, providers, and agreements such

requirements of part C of title XVIII (or, for periods before January 1, 1999, section 1876) and section 1903(m) relating to protection of beneficiaries and program integrity as would apply to MedicarePlus organizations under such part C (or for such periods eligible organizations under risk-sharing contracts under section 1876) and to health maintenance organizations under prepaid capitation agreements under section 1903(m).

"(B) CONSIDERATIONS.—In issuing such regulations, the Secretary shall—

"(i) take into account the differences between populations served and benefits provided under this section and under part C of title XVIII (or, for periods before January 1, 1999, section 1876) and section 1903(m);

"(ii) not include any requirement that conflicts with carrying out PACE programs under this section; and

"(iii) not include any requirement restricting the proportion of enrollees who are eligible for benefits under this title or title XVIII.

"(g) WAIVERS OF REQUIREMENTS.—With respect to carrying out a PACE program under this section, the following requirements of this title (and regulations relating to such requirements) shall not apply:

"(1) Section 1902(a)(1), relating to any requirement that PACE programs or PACE program services be provided in all areas of a State.

"(2) Section 1902(a)(10), insofar as such section relates to comparability of services among different population groups.

"(3) Sections 1902(a)(23) and 1915(b)(4), relating to freedom of choice of providers under a PACE program.

"(4) Section 1903(m)(2)(A), insofar as it restricts a PACE provider from receiving prepaid capitation payments.

"(h) DEMONSTRATION PROJECT FOR FOR-PROFIT ENTITIES.—

"(1) IN GENERAL.—In order to demonstrate the operation of a PACE program by a private, for-profit entity, the Secretary (in close consultation with State administering agencies) shall grant waivers from the requirement under subsection (a)(3) that a PACE provider may not be a for-profit, private entity.

"(2) SIMILAR TERMS AND CONDITIONS.—

"(A) IN GENERAL.—Except as provided under subparagraph (B), and paragraph (1), the terms and conditions for operation of a PACE program by a provider under this subsection shall be the same as those for PACE providers that are nonprofit, private organizations.

"(B) NUMERICAL LIMITATION.—The number of programs for which waivers are granted under this subsection shall not exceed 10. Programs with waivers granted under this subsection shall not be counted against the numerical limitation specified in subsection (e)(1)(B).

"(i) POST-ELIGIBILITY TREATMENT OF INCOME.—A State may provide for post-eligibility treatment of income for individuals enrolled in PACE programs under this section in the same manner as a State treats post-eligibility income for individuals receiving services under a waiver under section 1915(c).

"(j) MISCELLANEOUS PROVISIONS.—

"(1) CONSTRUCTION.—Nothing in this section or section 1894 shall be construed as preventing a PACE provider from entering into contracts with other governmental or nongovernmental payers for the care of PACE program eligible individuals who are not eligible for benefits under part A, or enrolled under part B, of title XVIII or eligible for medical assistance under this title.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1902 (42 U.S.C. 1396a), as amended by section 3403(c), is amended—

(A) in subsection (a)(10)(C)(iv), by striking "(25)" and inserting "(26)", and

(B) in subsection (j), by striking "(26)" and inserting "(27)".

(2) Section 1924(a)(5) (42 U.S.C. 1396r-5(a)(5)) is amended—

(A) in the heading, by striking "FROM ORGANIZATIONS RECEIVING CERTAIN WAIVERS" and inserting "UNDER PACE PROGRAMS", and

(B) by striking "from any organization" and all that follows and inserting "under a PACE demonstration waiver program (as defined in subsection (a)(7) of section 1932) or under a PACE program under section 1894.".

(3) Section 1903(f)(4)(C) (42 U.S.C. 1396b(f)(4)(C)) is amended by inserting "or who is a PACE program eligible individual enrolled in a PACE program under section 1932," after "section 1902(a)(10)(A),".

SEC. 3432. COVERAGE OF PACE UNDER THE MEDICARE PROGRAM.

Title XVIII (42 U.S.C. 1395 et seq.) is amended by inserting after section 1894 the following new section:

"PAYMENTS TO, AND COVERAGE OF BENEFITS UNDER, PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

"SEC. 1894. (a) RECEIPT OF BENEFITS THROUGH ENROLLMENT IN PACE PROGRAM; DEFINITIONS FOR PACE PROGRAM RELATED TERMS.—

"(1) BENEFITS THROUGH ENROLLMENT IN A PACE PROGRAM.—In accordance with this section, in the case of an individual who is entitled to benefits under part A or enrolled under part B and who is a PACE program eligible individual with respect to a PACE program offered by a PACE provider under a PACE program agreement—

"(A) the individual may enroll in the program under this section; and

"(B) so long as the individual is so enrolled and in accordance with regulations—

"(i) the individual shall receive benefits under this title solely through such program, and

"(ii) the PACE provider is entitled to payment under and in accordance with this section and such agreement for provision of such benefits.

"(2) APPLICATION OF DEFINITIONS.—The definitions of terms under section 1932(a) shall apply under this section in the same manner as they apply under section 1932.

"(b) APPLICATION OF MEDICAID TERMS AND CONDITIONS.—Except as provided in this section, the terms and conditions for the operation and participation of PACE program eligible individuals in PACE programs offered by PACE providers under PACE program agreements under section 1932 shall apply for purposes of this section.

"(c) PAYMENT.—

"(1) ADJUSTMENT IN PAYMENT AMOUNTS.—In the case of individuals enrolled in a PACE program under this section, the amount of payment under this section shall not be the amount calculated under section 1932(d)(2), but shall be an amount, specified under the PACE agreement, based upon payment rates established for purposes of payment under section 1854 (or, for periods before January 1, 1999, for purposes of risk-sharing contracts under section 1876) and shall be adjusted to take into account the comparative frailty of PACE enrollees and such other factors as the Secretary determines to be appropriate. Such amount under such an agreement shall be computed in a manner so that the total payment level for all PACE program eligible individuals enrolled under a program is less than the projected payment under this title for a comparable population not enrolled under a PACE program.

"(2) FORM.—The Secretary shall make prospective monthly payments of a capitation amount for each PACE program eligible individual enrolled under this section in the same manner and from the same sources as payments are made to a MedicarePlus organization under section 1854 (or, for periods beginning before January 1, 1999, to an eligible organization under a risk-sharing contract under section 1876). Such payments shall be subject to adjustment in the manner described in section 1854(a)(2) or section 1876(a)(1)(E), as the case may be.

"(d) WAIVERS OF REQUIREMENTS.—With respect to carrying out a PACE program under this section, the following requirements of this title (and regulations relating to such requirements) are waived and shall not apply:

"(1) Section 1812, insofar as it limits coverage of institutional services.

"(2) Sections 1813, 1814, 1833, and 1886, insofar as such sections relate to rules for payment for benefits.

"(3) Sections 1814(a)(2)(B), 1814(a)(2)(C), and 1835(a)(2)(A), insofar as they limit coverage of extended care services or home health services.

"(4) Section 1861(i), insofar as it imposes a 3-day prior hospitalization requirement for coverage of extended care services.

"(5) Sections 1862(a)(1) and 1862(a)(9), insofar as they may prevent payment for PACE program services to individuals enrolled under PACE programs.".

SEC. 3433. EFFECTIVE DATE; TRANSITION.

(a) TIMELY ISSUANCE OF REGULATIONS; EFFECTIVE DATE.—The Secretary of Health and Human Services shall promulgate regulations to carry out this subchapter in a timely manner. Such regulations shall be designed so that entities may establish and operate PACE programs under sections 1894 and 1932 for periods beginning not later than 1 year after the date of the enactment of this Act.

(b) EXPANSION AND TRANSITION FOR PACE DEMONSTRATION PROJECT WAIVERS.—

(1) EXPANSION IN CURRENT NUMBER AND EXTENSION OF DEMONSTRATION PROJECTS.—Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 4118(g) of the Omnibus Budget Reconciliation Act of 1987, is amended—

(A) in paragraph (1), by inserting before the period at the end the following: ", except that the Secretary shall grant waivers of such requirements to up to the applicable numerical limitation specified in section 1932(e)(1)(B) of the Social Security Act"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ", including permitting the organization to assume progressively (over the initial 3-year period of the waiver) the full financial risk"; and

(ii) in subparagraph (C), by adding at the end the following: "In granting further extensions, an organization shall not be required to provide for reporting of information which is only required because of the demonstration nature of the project.".

(2) ELIMINATION OF REPLICATION REQUIREMENT.—Subparagraph (B) of paragraph (2) of such section shall not apply to waivers granted under such section after the date of the enactment of this Act.

(3) TIMELY CONSIDERATION OF APPLICATIONS.—In considering an application for waivers under such section before the effective date of repeals under subsection (c), subject to the numerical limitation under the

amendment made by paragraph (1), the application shall be deemed approved unless the Secretary of Health and Human Services, within 90 days after the date of its submission to the Secretary, either denies such request in writing or informs the applicant in writing with respect to any additional information which is needed in order to make a final determination with respect to the application. After the date the Secretary receives such additional information, the application shall be deemed approved unless the Secretary, within 90 days of such date, denies such request.

(c) PRIORITY AND SPECIAL CONSIDERATION IN APPLICATION.—During the 3-year period beginning on the date of the enactment of this Act:

(1) PROVIDER STATUS.—The Secretary of Health and Human Services shall give priority, in processing applications of entities to qualify as PACE programs under section 1894 or 1932 of the Social Security Act—

(A) first, to entities that are operating a PACE demonstration waiver program (as defined in section 1932(a)(7) of such Act), and

(B) then entities that have applied to operate such a program as of May 1, 1997.

(2) NEW WAIVERS.—The Secretary shall give priority, in the awarding of additional waivers under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986—

(A) to any entities that have applied for such waivers under such section as of May 1, 1997; and

(B) to any entity that, as of May 1, 1997, has formally contracted with a State to provide services for which payment is made on a capitated basis with an understanding that the entity was seeking to become a PACE provider.

(3) SPECIAL CONSIDERATION.—The Secretary shall give special consideration, in the processing of applications described in paragraph (1) and the awarding of waivers described in paragraph (2), to an entity which as of May 1, 1997 through formal activities (such as entering into contracts for feasibility studies) has indicated a specific intent to become a PACE provider.

(d) REPEAL OF CURRENT PACE DEMONSTRATION PROJECT WAIVER AUTHORITY.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the following provisions of law are repealed:

(A) Section 603(c) of the Social Security Amendments of 1983 (Public Law 98–21).

(B) Section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272).

(C) Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509).

(2) DELAY IN APPLICATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the repeals made by paragraph (1) shall not apply to waivers granted before the initial effective date of regulations described in subsection (a).

(B) APPLICATION TO APPROVED WAIVERS.—Such repeals shall apply to waivers granted before such date only after allowing such organizations a transition period (of up to 24 months) in order to permit sufficient time for an orderly transition from demonstration project authority to general authority provided under the amendments made by this subchapter.

(3) STATE OPTION.—A State may elect to maintain the PACE program which (as of the date of the enactment of this Act) were operating under the authority described in paragraph (1) without electing to use the authority under section 1932 of the Public Health Service Act.

SEC. 3434. STUDY AND REPORTS.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in close consultation with State administering agencies, as defined in section 1932(a)(8) of the Social Security Act) shall conduct a study of the quality and cost of providing PACE program services under the medicare and medicaid programs under the amendments made by this subchapter.

(2) STUDY OF PRIVATE, FOR-PROFIT PROVIDERS.—Such study shall specifically compare the costs, quality, and access to services by entities that are private, for-profit entities operating under demonstration projects waivers granted under section 1932(h) of the Social Security Act with the costs, quality, and access to services of other PACE providers.

(b) REPORT.—

(1) IN GENERAL.—Not later than 4 years after the date of the enactment of this Act, the Secretary shall provide for a report to Congress on the impact of such amendments on quality and cost of services. The Secretary shall include in such report such recommendations for changes in the operation of such amendments as the Secretary deems appropriate.

(2) TREATMENT OF PRIVATE, FOR-PROFIT PROVIDERS.—The report shall include specific findings on whether any of the following findings is true:

(A) The number of covered lives enrolled with entities operating under demonstration project waivers under section 1932(h) of the Social Security Act is fewer than 800 (or such lesser number as the Secretary may find statistically sufficient to make determinations respecting findings described in the succeeding subparagraphs).

(B) The population enrolled with such entities is less frail than the population enrolled with other PACE providers.

(C) Access to or quality of care for individuals enrolled with such entities is lower than such access or quality for individuals enrolled with other PACE providers.

(D) The application of such section has resulted in an increase in expenditures under the medicare or medicaid programs above the expenditures that would have been made if such section did not apply.

(c) INFORMATION INCLUDED IN ANNUAL RECOMMENDATIONS.—The Medicare Payment Advisory Commission shall include in its annual report under section 1805(b)(1)(B) of the Social Security Act recommendations on the methodology and level of payments made to PACE providers under section 1894(d) of such Act and on the treatment of private, for-profit entities as PACE providers.

Subchapter E—Benefits

SEC. 3441. ELIMINATION OF REQUIREMENT TO PAY FOR PRIVATE INSURANCE.

(a) REPEAL OF STATE PLAN PROVISION.—Section 1902(a)(25) (42 U.S.C. 1396a(a)(25)) is amended—

(1) by striking subparagraph (G); and

(2) by redesignating subparagraphs (H) and (I) as subparagraphs (G) and (H), respectively.

(b) MAKING PROVISION OPTIONAL.—Section 1906 (42 U.S.C. 1396e) is amended—

(1) in subsection (a)—

(A) by striking "For purposes of section 1902(a)(25)(G) and subject to subsection (d), each" and inserting "Each",

(B) in paragraph (1), by striking "shall" and inserting "may", and

(C) in paragraph (2), by striking "shall" and inserting "may"; and

(2) by striking subsection (d).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 3442. PERMITTING SAME COPAYMENTS IN HEALTH MAINTENANCE ORGANIZATIONS AS IN FEE-FOR-SERVICE.

(a) IN GENERAL.—Section 1916(a)(2)(D) (42 U.S.C. 1396o(a)(2)(D)) is amended by inserting "(at the option of the State)" after "section 1905(a)(4)(C), or".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to cost sharing with respect to deductions, cost sharing and similar charges imposed for items and services furnished on or after the date of the enactment of this Act.

SEC. 3443. PHYSICIAN QUALIFICATION REQUIREMENTS.

(a) IN GENERAL.—Section 1903(i) (42 U.S.C. 1396b(i)) is amended by striking paragraph (12)

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after the date of the enactment of this Act.

SEC. 3444. ELIMINATION OF REQUIREMENT OF PRIOR INSTITUTIONALIZATION WITH RESPECT TO HABILITATION SERVICES FURNISHED UNDER A WAIVER FOR HOME OR COMMUNITY-BASED SERVICES.

(a) IN GENERAL.—Section 1915(c)(5) (42 U.S.C. 1396n(c)(5)) is amended, in the matter preceding subparagraph (A), by striking ", with respect to individuals who receive such services after discharge from a nursing facility or intermediate care facility for the mentally retarded".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) apply to services furnished on or after October 1, 1997.

SEC. 3445. BENEFITS FOR SERVICES OF PHYSICIAN ASSISTANTS.

(a) IN GENERAL.—Section 1905(a) (42 U.S.C. 1396d(a)), as amended by sections 3403(a) and 3431(a), is amended—

(1) by redesignating paragraphs (22) through (27) as paragraphs (23) through (28), and

(2) by inserting after paragraph (21) the following new paragraph:

"(22) services furnished by an physician assistant (as defined in section 1861(aa)(5)) which the assistant is legally authorized to perform under State law and with the supervision of a physician;".

(b) CONFORMING AMENDMENTS.—Section 1902 (42 U.S.C. 1396a), as amended by sections 3403(c) and 3431(b)(1), is amended—

(1) in subsection (a)(10)(C)(iv), by striking "(26)" and inserting "(27)", and

(2) in subsection (j), by striking "(27)" and inserting "(28)".

SEC. 3446. STUDY AND REPORT ON ACTUARIAL VALUE OF EPSDT BENEFIT.

(a) STUDY.—The Secretary of Health and Human Services shall provide for a study on the actuarial value of the provision of early and periodic screening, diagnostic, and treatment services (as defined in section 1905(r) of the Social Security Act (42 U.S.C. 1396d(r))) under the medicaid program under title XIX of such Act. Such study shall include an examination of the portion of such value that is attributable to paragraph (5) of such section and to the second sentence of such section.

(b) REPORT.—By not later than 18 months after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the results of the study under subsection (a).

Subchapter F—Administration

SEC. 3451. ELIMINATION OF DUPLICATIVE INSPECTION OF CARE REQUIREMENTS FOR ICFS/MR AND MENTAL HOSPITALS.

(a) MENTAL HOSPITALS.—Section 1902(a)(26) (42 U.S.C. 1396a(a)(26)) is amended—

(1) by striking "provide—

"(A) with respect to each patient" and inserting "provide, with respect to each patient"; and

(2) by striking subparagraphs (B) and (C).

(b) ICFS/MR.—Section 1902(a)(31) (42 U.S.C. 1396a(a)(31)) is amended—

(1) by striking "provide—

"(A) with respect to each patient" and inserting "provide, with respect to each patient"; and

(2) by striking subparagraphs (B) and (C).

(c) EFFECTIVE DATE.—The amendments made by this section take effect on the date of the enactment of this Act.

SEC. 3452. ALTERNATIVE SANCTIONS FOR NONCOMPLIANT ICFS/MR.

(a) IN GENERAL.—Section 1902(i)(1)(B) (42 U.S.C. 1396a(i)(1)(B)) is amended by striking "provide" and inserting "establish alternative remedies if the State demonstrates to the Secretary's satisfaction that the alternative remedies are effective in deterring noncompliance and correcting deficiencies, and may provide".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) takes effect on the date of the enactment of this Act.

SEC. 3453. MODIFICATION OF MMIS REQUIREMENTS.

(a) IN GENERAL.—Section 1903(r) (42 U.S.C. 1396b(r)) is amended—

(1) by striking all that precedes paragraph (5) and inserting the following:

"(r)(1) In order to receive payments under subsection (a) for use of automated data systems in administration of the State plan under this title, a State must have in operation mechanized claims processing and information retrieval systems that meet the requirements of this subsection and that the Secretary has found—

"(A) is adequate to provide efficient, economical, and effective administration of such State plan;

"(B) is compatible with the claims processing and information retrieval systems used in the administration of title XVIII, and for this purpose—

"(i) has a uniform identification coding system for providers, other payees, and beneficiaries under this title or title XVIII;

"(ii) provides liaison between States and carriers and intermediaries with agreements under title XVIII to facilitate timely exchange of appropriate data; and

"(iii) provides for exchange of data between the States and the Secretary with respect to persons sanctioned under this title or title XVIII;

"(C) is capable of providing accurate and timely data;

"(D) is complying with the applicable provisions of part C of title XI;

"(E) is designed to receive provider claims in standard formats to the extent specified by the Secretary; and

"(F) effective for claims filed on or after January 1, 1999, provides for electronic transmission of claims data in the format specified by the Secretary and consistent with the Medicaid Statistical Information System (MSIS) (including detailed individual enrollee encounter data and other information that the Secretary may find necessary).".

(2) in paragraph (5)—

(A) by striking subparagraph (B);

(B) by striking all that precedes clause (i) and inserting the following:

"(2) In order to meet the requirements of this paragraph, mechanized claims processing and information retrieval systems must meet the following requirements:";

(C) in clause (iii), by striking "under paragraph (6)"; and

(D) by redesignating clauses (i) through (iii) as paragraphs (A) through (C); and

(3) by striking paragraphs (6), (7), and (8).

(b) CONFORMING AMENDMENTS.—Section 1902(a)(25)(A)(ii) (42 U.S.C. 1396a(a)(25)(A)(ii)) is amended by striking all that follows "shall" and inserting the following: "be integrated with, and be monitored as a part of the Secretary's review of, the State's mechanized claims processing and information retrieval system under section 1903(r);".

(c) EFFECTIVE DATE.—Except as otherwise specifically provided, the amendments made by this section shall take effect on January 1, 1998.

SEC. 3454. FACILITATING IMPOSITION OF STATE ALTERNATIVE REMEDIES ON NONCOMPLIANT NURSING FACILITIES.

(a) IN GENERAL.—Section 1919(h)(3)(D) (42 U.S.C. 1396r(h)(3)(D)) is amended—

(1) by inserting "and" at the end of clause (i);

(2) by striking ", and" at the end of clause (ii) and inserting a period; and

(3) by striking clause (iii).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date of the enactment of this Act.

SEC. 3455. MEDICALLY ACCEPTED INDICATION.

Section 1927(g)(1)(B)(i) (42 U.S.C. 1396r-8(g)(1)(B)(i)) is amended—

(1) by striking "and" at the end of subclause (II),

(2) by redesignating subclause (III) as subclause (IV), and

(3) by inserting after subclause (II) the following:

"(III) the DRUGDEX Information System; and".

SEC. 3456. CONTINUATION OF STATE-WIDE SECTION 1115 MEDICAID WAIVERS.

(a) IN GENERAL.—Section 1115 (42 U.S.C. 1315) is amended by adding at the end the following new subsection:

"(e)(1) The provisions of this subsection shall apply to the extension of State-wide comprehensive demonstration project (in this subsection referred to as 'waiver project') for which a waiver of compliance with requirements of title XIX is granted under subsection (a).

"(2) Not earlier than 1 year before the date the waiver under subsection (a) with respect to a waiver project would otherwise expire, the chief executive officer of the State which is operating the project may submit to the Secretary a written request for an extension, of up to 3 years, of the project.

"(3) If the Secretary fails to respond to the request within 6 months after the date it is submitted, the request is deemed to have been granted.

"(4) If such a request is granted, the deadline for submittal of a final report under the waiver project is deemed to have been extended until the date that is 1 year after the date the waivers under subsection (a) with respect to the project would otherwise have expired.

"(5) The Secretary shall release an evaluation of each such project not later than 1 year after the date of receipt of the final report.

"(6) Subject to paragraphs (4) and (7), the extension of a waiver project under this subsection shall be on the same terms and conditions (including applicable terms and conditions relating to quality and access of services, budget neutrality, data and reporting requirements, and special population protections) that applied to the project before its extension under this subsection.

"(7) If an original condition of approval of a waiver project was that Federal expenditures under the project not exceed the Federal expenditures that would otherwise have been made, the Secretary shall take such steps as may be necessary to assure that, in the extension of the project under this subsection, such condition continues to be met. In applying the previous sentence, the Secretary shall take into account the Secretary's best estimate of rates of change in expenditures at the time of the extension.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to demonstration projects initially approved before, on, or after the date of the enactment of this Act.

SEC. 3457. AUTHORIZING ADMINISTRATIVE STREAMLINING AND PRIVATIZING MODIFICATIONS UNDER THE MEDICAID PROGRAM.

Section 1902 (42 U.S.C. 1396a) is amended by adding at the end the following:

"(aa)(1) Notwithstanding any other provision of law, no provision of law shall be construed as preventing any State from allowing determinations of eligibility to receive medical assistance under this title to be made by an entity that is not a State or local government, or by an individual who is not an employee of a State or local government, which meets such qualifications as the State determines. For purposes of any Federal law, such determinations shall be considered to be made by the State and by a State agency.

"(2) Nothing in this subsection shall be construed as affecting—

"(A) the conditions for eligibility for benefits (including any conditions relating to income or resources); and

"(B) the rights to challenge determinations regarding eligibility or rights to benefits; and

"(C) determinations regarding quality control or error rates.".

SEC. 3458. EXTENSION OF MORATORIUM.

Section 6408(a)(3) of the Omnibus Budget Reconciliation Act of 1989, as amended by section 13642 of the Omnibus Budget Reconciliation Act of 1993, is amended by striking "December 31, 1995" and inserting "December 31, 2002".

CHAPTER 2—QUALITY ASSURANCE

SEC. 3461. REQUIREMENTS TO ENSURE QUALITY OF AND ACCESS TO CARE UNDER MANAGED CARE PLANS.

(a) STATE PLAN REQUIREMENT.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (62), by striking "; and" at the end and inserting a semicolon;

(2) by striking the period at the end of paragraph (63) and inserting "; and"; and

(3) by inserting after paragraph (63) the following new paragraph:

"(64) provide, with respect to all contracts described in section 1903(m)(2)(A) with an organization or provider, that—

"(A) the State agency develops and implements a quality assessment and improvement strategy, consistent with standards that the Secretary shall establish, in consultation with the States, and monitor and that do not preempt the application of stricter State standards, which includes—

"(i) standards for access to care so that covered services are available within reasonable timeframes and in a manner that ensures continuity of care and adequate primary care and, where applicable, specialized

services capacity, including pediatric specialized services for special needs children (as defined in section 1915(i)); and

"(ii) procedures for monitoring and evaluating the quality and appropriateness of care and services to beneficiaries that reflect the full spectrum of populations enrolled under the contract and that include—

"(I) requirements for provision of quality assurance data to the State using the data and information set that the Secretary shall specify with respect to entities contracting under section 1876 or alternative data requirements approved by the Secretary;

"(II) regular and periodic examination of the scope and content of the quality improvement strategy; and

"(III) other aspects of care and service directly related to the improvement of quality of care (including grievance procedures and marketing and information standards); and

"(B) that adequate provision is made, consistent with standards that the Secretary shall specify and monitor, with respect to financial reporting under the contracts.".

(b) DEEMED COMPLIANCE.—Section 1903(m) (42 U.S.C. 1396b(m)) is amended by adding at the end the following:

"(7) DEEMED COMPLIANCE.—

"(A) MEDICARE ORGANIZATIONS.—At the option of a State, the requirements of the previous provisions of this subsection shall not apply with respect to a health maintenance organization if the organization is an eligible organization with a contract in effect under section 1876 or a MedicarePlus organization with a contract in effect under C of title XVIII.

"(B) PRIVATE ACCREDITATION.—

"(i) IN GENERAL.—At the option of a State, such requirements shall not apply with respect to a health maintenance organization if—

"(I) the organization is accredited by an organization meeting the requirements described in subparagraph (C); and

"(II) the standards and process under which the organization is accredited meet such requirements as are established under clause (ii), without regard to whether or not the time requirement of such clause is satisfied.

"(ii) STANDARDS AND PROCESS.—Not later than 180 days after the date of the enactment of this paragraph, the Secretary shall specify requirements for the standards and process under which a health maintenance organization is accredited by an organization meeting the requirements of subparagraph (C).

"(C) ACCREDITING ORGANIZATION.—An accrediting organization meets the requirements of this subparagraph if the organization—

"(i) is a private, nonprofit organization;

"(ii) exists for the primary purpose of accrediting managed care organizations or health care providers; and

"(iii) is independent of health care providers or associations of health care providers.".

(c) APPLICATION TO MANAGED CARE ENTITIES.—Section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)) is amended—

(1) by striking "and" at the end of clause (x),

(2) by striking the period at the end of clause (xi) and inserting "; and", and

(3) by adding at the end the following new clause:

"(xii) such contract provides for—

"(I) submitting to the State agency such information as may be necessary to monitor the care delivered to members,

"(II) maintenance of an internal quality assurance program consistent with section 1902(a)(64)(A), and meeting standards that the Secretary shall establish in regulations; and

"(III) providing effective procedures for hearing and resolving grievances between the entity and members enrolled with the organization under this subsection.".

(d) APPLICATION TO PRIMARY CARE CASE MANAGEMENT CONTRACTS.—Section 1905(t)(3), as added by section 3403(b), is amended—

(1) by striking "and" at the end of subparagraph (D),

(2) by striking the period at the end of subparagraph (E) and inserting "; and", and

(3) by adding at the end the following new subparagraph:

"(F) if payment is made to the organization on a prepaid capitated or other risk basis, compliance with the requirements of section 1903(m)(2)(A)(xii) in the same manner such requirements apply to a health maintenance organization under section 1903(m)(2)(A).".

(e) EFFECTIVE DATE.—The amendments made by this section apply to agreements between a State agency and an organization entered into or renewed on or after January 1, 1999.

SEC. 3462. SOLVENCY STANDARDS FOR CERTAIN HEALTH MAINTENANCE ORGANIZATIONS.

(a) IN GENERAL.—Section 1903(m)(1) (42 U.S.C. 1396b(m)(1)) is amended—

(1) in subparagraph (A)(ii), by inserting ", meets the requirements of subparagraph (C)(i) (if applicable)," after "provision is satisfactory to the State", and

(2) by adding at the end the following:

"(C)(i) Subject to clause (ii), a provision meets the requirements of this subparagraph for an organization if the organization meets solvency standards established by the State for private health maintenance organizations or is licensed or certified by the State as a risk-bearing entity.

"(ii) Clause (i) shall not apply to an organization if—

"(I) the organization is not responsible for the provision (directly or through arrangements with providers of services) of inpatient hospital services and physicians' services;

"(II) the organization is a public entity;

"(III) the solvency of the organization is guaranteed by the State; or

"(IV) the organization is (or is controlled by) one or more federally-qualified health centers and meets solvency standards established by the State for such an organization.

For purposes of subclause (IV), the term 'control' means the possession, whether direct or indirect, of the power to direct or cause the direction of the management and policies of the organization through membership, board representation, or an ownership interest equal to or greater than 50.1 percent."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to contracts entered into or renewed on or after October 1, 1998.

(c) TRANSITION.—In the case of a health maintenance organization that as of the date of the enactment of this Act has entered into a contract with a State for the provision of medical assistance under title XIX under which the organization assumes full financial risk and is receiving capitation payments, the amendment made by subsection (a) shall not apply to such organization until 3 years after the date of the enactment of this Act.

SEC. 3463. APPLICATION OF PRUDENT LAYPERSON STANDARD FOR EMERGENCY MEDICAL CONDITION AND PROHIBITION OF GAG RULE RESTRICTIONS.

Section 1903(m) (42 U.S.C. 1396b(m)) is amended by adding at the end the following:

"(8)(A)(i) Each contract with a health maintenance organization under this subsection shall require the organization—

"(I) to provide coverage for emergency services (as defined in subparagraph (B)) without regard to prior authorization or the emergency care provider's contractual relationship with the organization, and

"(II) to comply with guidelines established under section 1852(d)(2) (respecting coordination of post-stabilization care) in the same manner as such guidelines apply to MedicarePlus plans offered under part C of title XVIII.

"(B) In subparagraph (A)(i)(I), the term 'emergency services' means, with respect to an individual enrolled with an organization, covered inpatient and outpatient services that—

"(i) are furnished by a provider that is qualified to furnish such services under this title, and

"(ii) are needed to evaluate or stabilize an emergency medical condition (as defined in subparagraph (C)).

"(C) In subparagraph (B)(ii), the term 'emergency medical condition' means a medical condition manifesting itself by acute symptoms of sufficient severity such 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—

"(i) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

"(ii) serious impairment to bodily functions, or

"(iii) serious dysfunction of any bodily organ or part.

"(9)(A) Subject to subparagraphs (B) and (C), under a contract under this subsection a health maintenance organization (in relation to an individual enrolled under the contract) shall not prohibit or otherwise restrict a covered health care professional (as defined in subparagraph (D)) from advising such an individual who is a patient of the professional about the health status of the individual or medical care or treatment for the individual's condition or disease, regardless of whether benefits for such care or treatment are provided under the plan, if the professional is acting within the lawful scope of practice.

"(B) Subparagraph (A) shall not be construed as requiring a health maintenance organization to provide, reimburse for, or provide coverage of a counseling or referral service if the organization—

"(i) objects to the provision of such service on moral or religious grounds; and

"(ii) in the manner and through the written instrumentalities such organization deems appropriate, makes available information on its policies regarding such service to prospective enrollees before or during enrollment and to enrollees within 90 days after the date that the organization or plan adopts a change in policy regarding such a counseling or referral service.

"(C) Nothing in subparagraph (B) shall be construed to affect disclosure requirements under State law or under the Employee Retirement Income Security Act of 1974.

"(D) For purposes of this paragraph, the term 'health care professional' means a physician (as defined in section 1861(r)) or other

health care professional if coverage for the professional's services is provided under the contract under this subsection for the services of the professional. Such term includes a podiatrist, optometrist, chiropractor, psychologist, dentist, physician assistant, physical or occupational therapist and therapy assistant, speech-language pathologist, audiologist, registered or licensed practical nurse (including nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, and certified nurse-midwife), licensed certified social worker, registered respiratory therapist, and certified respiratory therapy technician.".

SEC. 3464. ADDITIONAL FRAUD AND ABUSE PROTECTIONS IN MANAGED CARE.

(a) PROTECTION AGAINST MARKETING ABUSES.—Section 1903(m) (42 U.S.C. 1396b(m)), as amended by section 3463, is amended—

(1) in paragraph (2)(A)(viii), by inserting "and compliance with the requirements of paragraphs (10) and (11)" after "of this subsection", and

(2) by adding at the end the following:

"(10)(A)(i) A health maintenance organization with respect to activities under this subsection may not distribute directly or through any agent or independent contractor marketing materials within any State—

"(I) without the prior approval of the State; and

"(II) that contain false or materially misleading information.

"(ii) In the process of reviewing and approving such materials, the State shall provide for consultation with a medical care advisory committee.

"(iii) The State may not enter into or renew a contract with a health maintenance organization for the provision of services to individuals enrolled under the State plan under this title if the State determines that the entity distributed directly or through any agent or independent contractor marketing materials in violation of clause (i)(II).

"(B) A health maintenance organization shall distribute marketing materials to the entire service area of such organization.

"(C) A health maintenance organization, or any agency of such organization, may not seek to influence an individual's enrollment with the organization in conjunction with the sale of any other insurance.

"(D) Each health maintenance organization shall comply with such procedures and conditions as the Secretary prescribes in order to ensure that, before an individual is enrolled with the organization under this title, the individual is provided accurate oral and written and sufficient information to make an informed decision whether or not to enroll.

"(E) Each health maintenance organization shall not, directly or indirectly, conduct door-to-door, telephonic, or other 'cold call' marketing of enrollment under this title.".

(b) PROHIBITING AFFILIATIONS WITH INDIVIDUALS DEBARRED BY FEDERAL AGENCIES.—Section 1903(m) (42 U.S.C. 1396b(m)), as amended by section 3463 and subsection (a), is further amended by adding at the end the following:

"(11)(A) A health maintenance organization may not knowingly—

"(i) have a person described in subparagraph (C) as a director, officer, partner, or person with beneficial ownership of more than 5 percent of the organization equity; or

"(ii) have an employment, consulting, or other agreement with a person described in such subparagraph for the provision of items and services that are significant and material to the organization's obligations under its contract with the State.

"(B) If a State finds that a health maintenance organization is not in compliance with clause (i) or (ii) of subparagraph (A), the State—

"(i) shall notify the Secretary of such noncompliance;

"(ii) may continue an existing agreement with the organization unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) directs otherwise; and

"(iii) may not renew or otherwise extend the duration of an existing agreement with the organization unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) provides to the State and to the Congress a written statement describing compelling reasons that exist for renewing or extending the agreement.

"(C) A person is described in this subparagraph if such person—

"(i) is debarred, suspended, or otherwise excluded from participating in procurement activities under the Federal acquisition regulation or from participating in nonprocurement activities under regulations issued pursuant to Executive Order 12549; or

"(ii) is an affiliate (within the meaning of the Federal acquisition regulation) of a person described in clause (i).".

(c) APPLICATION OF STATE CONFLICT-OF-INTEREST SAFEGUARDS.—Section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)), as amended by section 3461(c), is amended—

(1) by striking "and" at the end of clause (xi),

(2) by striking the period at the end of clause (xii) and inserting "; and", and

(3) by inserting after clause (xi) the following:

"(xiii) the State has in effect conflict-of-interest safeguards with respect to officers and employees of the State with responsibilities relating to contracts with such organizations and to any default enrollment process that are at least as effective as the Federal safeguards provided under section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423), against conflicts of interest that apply with respect to Federal procurement officials with comparable responsibilities with respect to such contracts.".

(d) LIMITATION ON AVAILABILITY OF FFP FOR USE OF ENROLLMENT BROKERS.—Section 1903(b) (42 U.S.C. 1396b(b)), as amended by section 3413(b), is amended by adding at the end the following:

"(5) Amounts expended by a State for the use an enrollment broker in marketing health maintenance organizations and other managed care entities to eligible individuals under this title shall be considered, for purposes of subsection (a)(7), to be necessary for the proper and efficient administration of the State plan but only if the following conditions are met with respect to the broker:

"(A) The broker is independent of any such entity and of any health care providers (whether or not any such provider participates in the State plan under this title) that provide coverage of services in the same State in which the broker is conducting enrollment activities.

"(B) No person who is an owner, employee, consultant, or has a contract with the broker either has any direct or indirect financial interest with such an entity or health care provider or has been excluded from participation in the program under this title or title XVIII or debarred by any Federal agency, or subject to a civil money penalty under this Act.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1998.

SEC. 3465. GRIEVANCES UNDER MANAGED CARE PLANS.

Section 1903(m) (42 U.S.C. 1396b(m)) is amended—

(1) in paragraph (2)(A), as amended by sections 3461(c) and 3464(c),—

(A) by striking "and" at the end of clause (xii),

(B) by striking the period at the end of clause (xiii) and inserting "; and", and

(C) by inserting after clause (xiii) the following new clause:

"(xiv) such contract provides for compliance of the organization with the grievance and appeals requirements described in paragraph (3).'"; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3)(A) An eligible organization must provide a meaningful and expedited procedure, which includes notice and hearing requirements, for 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 subsection. Under the procedure any member enrolled with the organization may at any time file orally or in writing a complaint to resolve grievances between the member and the organization before a board of appeals established under subparagraph (C).

"(B)(i) The organization must provide, in a timely manner, such an enrollee a notice of any denial of services in-network or denial of payment for out-of-network care or notice of termination or reduction of services.

"(ii) Such notice shall include the following:

"(I) A clear statement of the reason for the denial.

"(II) An explanation of the complaint process under subparagraph (C) which is available to the enrollee upon request.

"(III) An explanation of all other appeal rights available to all enrollees.

"(IV) A description of how to obtain supporting evidence for this hearing, including the patient's medical records from the organization, as well as supporting affidavits from the attending health care providers.

"(C)(i) Each eligible organization shall establish a board of appeals to hear and make determinations on complaints by enrollees under this subsection concerning denials of coverage or payment for services (whether in-network or out-of-network) and the medical necessity and appropriateness of covered items and services.

"(ii) A board of appeals of an eligible organization shall consist of—

"(I) representatives of the organization, including physicians, nonphysicians, administrators, and enrollees;

"(II) consumers who are not enrollees; and

"(III) providers with expertise in the field of medicine which necessitates treatment.

"(iii) A board of appeals shall hear and resolve complaints within 30 days after the date the complaint is filed with the board.

"(D) Nothing in this paragraph may be construed to replace or supersede any appeals mechanism otherwise provided for an individual entitled to benefits under this title.".

SEC. 3466. STANDARDS RELATING TO ACCESS TO OBSTETRICAL AND GYNECOLOGICAL SERVICES UNDER MANAGED CARE PLANS.

(a) IN GENERAL.—Section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)), as amended by sections 3461(c), 3464(c), and 3465(1), is amended—

(1) by striking "and" at the end of clause (xiii),

(2) by striking the period at the end of clause (xiv) and inserting "; and", and

(3) by inserting after clause (xiv) the following:

"(xv) the organization complies with the requirements of paragraph (12).".

(b) REQUIREMENTS.—Section 1903(m) (42 U.S.C. 1396b(m)), as amended by sections 3463, 3464(a), and 3464(b), is amended by adding at the end the following new paragraph:

"(12)(A) If a health maintenance organization, under a contract under this subsection, requires or provides for an enrollee to designate a participating primary care provider—

"(i) the organization shall permit a female enrollee to designate an obstetrician-gynecologist who has agreed to be designated as such, as the enrollee's primary care provider; and

"(ii) if such an enrollee has not designated such a provider as a primary care provider, the organization—

"(I) may not require prior authorization by the enrollee's primary care provider or otherwise for coverage of obstetric and gynecologic care provided by a participating obstetrician-gynecologist, or a participating health care professional practicing in collaboration with the obstetrician-gynecologist and in accordance with State law, to the extent such care is otherwise covered, and

"(II) shall treat the ordering of other gynecologic care by such a participating physician as the prior authorization of the primary care provider with respect to such care under the contract.

"(B) Nothing in subparagraph (A)(ii)(II) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of gynecologic care so ordered.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts entered into, renewed, or extended on or after January 1, 1998.

CHAPTER 3—FEDERAL PAYMENTS

SEC. 3471. REFORMING DISPROPORTIONATE SHARE PAYMENTS UNDER STATE MEDICAID PROGRAMS.

(a) DIRECT PAYMENT BY STATE.—Subsection (a)(1) of section 1923 (42 U.S.C. 1396r-4) is amended—

(1) by striking "and" at the end of subparagraph (A),

(2) by striking the period at the end of subparagraph (B) and inserting ", and", and

(3) by adding at the end the following new subparagraph:

"(C) provides that payment adjustments under the plan under this section for services furnished by a hospital on or after October 1, 1997, for individuals entitled to benefits under the plan, and enrolled with an entity described in section 1903(m), under a primary care case management system (described in section 1905(t)), or other managed care plan—

"(i) are made directly to the hospital by the State, and

"(ii) are not used as part of, and are disregarded in determining the amount of, prepaid capitation paid under the State plan with respect to those services.".

(b) ADJUSTMENT TO STATE DSH ALLOCATIONS.—

(1) IN GENERAL.—Subsection (f) of such section is amended—

(A) in paragraph (2)(A), by inserting "and paragraph (5)" after "subparagraph (B)", and

(B) by adding at the end the following new paragraph:

"(5) ADJUSTMENTS IN DSH ALLOTMENTS.—

"(A) ALLOTMENT FROZEN FOR STATES WITH VERY LOW DSH EXPENDITURES.—In the case of a State for which its State 1995 DSH spending did not exceed 1 percent of the total amount expenditures made under the State plan under this title for medical assistance during fiscal year 1995 (as reported by the State no later than January 1, 1997, on HCFA Form 64), the DSH allotment for each of fiscal years 1998 through 2002 is equal to its State 1995 DSH spending.

"(B) FULL REDUCTION FOR HIGH DSH STATES.—In the case of a State which was classified under this subsection as a high DSH State for fiscal year 1997, the DSH allotment for each of fiscal years 1998 through 2002 is equal to the State 1995 DSH spending reduced by the full reduction percentage (described in subparagraph (D)) for the fiscal year involved.

"(C) HALF-REDUCTION FOR OTHER STATES.—In the case of a State not described in subparagraph (A) or (B), the DSH allotment for each of fiscal years 1998 through 2002 is equal to the State 1995 DSH spending reduced by ½ of the full reduction percentage for the fiscal year involved.

"(D) FULL REDUCTION PERCENTAGE.—For purposes of this paragraph, the 'full reduction percentage' for—

"(i) fiscal year 1998 is 2 percent,

"(ii) fiscal year 1999 is 5 percent,

"(iii) fiscal year 2000 is 20 percent,

"(iv) fiscal year 2001 is 30 percent, and

"(v) fiscal year 2002 is 40 percent.

"(E) DEFINITIONS.— In this paragraph:

"(i) STATE.—The term 'State' means the 50 States and the District of Columbia.

"(ii) STATE 1995 DSH SPENDING.—The term 'State 1995 DSH spending' means, with respect to a State, the total amount of payment adjustments made under subsection (c) under the State plan during fiscal year 1995 as reported by the State no later than January 1, 1997, on HCFA Form 64.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to fiscal years beginning with fiscal year 1998.

(c) TRANSITION RULE.—Effective July 1, 1997, section 1923(g)(2)(A) of the Social Security Act (42 U.S.C. 1396r-4(g)(2)(A)) shall be applied to the State of California as though—

(1) "or that begins on or after July 1, 1997, and before July 1, 1999" were inserted in such section after "January 1, 1995"; and

(2) "(or 175 percent in the case of a State fiscal year that begins on or after July 1, 1997, and before July 1, 1999)" were inserted in such section after "200 percent".

SEC. 3472. ADDITIONAL FUNDING FOR STATE EMERGENCY HEALTH SERVICES FURNISHED TO UNDOCUMENTED ALIENS.

(a) TOTAL AMOUNT AVAILABLE FOR ALLOTMENT.—There are available for allotments under this section for each of the 5 fiscal years (beginning with fiscal year 1998) $20,000,000 for payments to certain States under this section.

(b) STATE ALLOTMENT AMOUNT.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall compute an allotment for each fiscal year beginning with fiscal year 1998 and ending with fiscal year 2002 for each of the 12 States with the highest number of undocumented aliens. The amount of such allotment for each such State for a fiscal year shall bear the same ratio to the total amount available for allotments under subsection (a) for the fiscal year as the ratio of the number of undocumented aliens in the State in the fiscal year bears to the total of such numbers for all such States for such fiscal year. The amount of allotment to a State provided under this paragraph for a fiscal year that is not paid out under subsection (c) shall be available for payment during the subsequent fiscal year.

(2) DETERMINATION.—For purposes of paragraph (1), the number of undocumented aliens in a State under this section shall be determined based on estimates of the resident illegal alien population residing in each State prepared by the Statistics Division of the Immigration and Naturalization Service as of October 1992 (or as of such later date if such date is at least 1 year before the beginning of the fiscal year involved),

(c) USE OF FUNDS.—From the allotments made under subsection (b), the Secretary shall pay to each State amounts the State demonstrates were paid by the State (or by a political subdivision of the State) for emergency health services furnished to undocumented aliens.

(d) STATE DEFINED.—For purposes of this section, the term "State" includes the District of Columbia.

(e) STATE ENTITLEMENT.—This section 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 provided under subsection (c).

Subtitle F—Child Health Assistance Program (CHAP)

SEC. 3501. SHORT TITLE OF SUBTITLE; TABLE OF CONTENTS OF SUBTITLE.

(a) SHORT TITLE OF SUBTITLE.—This subtitle may be cited as the "Child Health Assistance Program Act of 1997".

(b) TABLE OF CONTENTS OF SUBTITLE.—The table of contents of this subtitle is as follows:

Sec. 3501. Short title of subtitle; table of contents.
Sec. 3502. Establishment of Child Health Assistance Program (CHAP).
"TITLE XXI—CHILD HEALTH ASSISTANCE PROGRAM
"Sec. 2101. Purpose; State child health plans.
"Sec. 2102. Contents of State child health plan.
"Sec. 2103. Allotments.
"Sec. 2104. Payments to States.
"Sec. 2105. Process for submission, approval, and amendment of State child health plans.
"Sec. 2106. Strategic objectives and performance goals; plan administration.
"Sec. 2107. Annual reports; evaluations.
"Sec. 2108. Definitions.
Sec. 3503. Optional use of State child health assistance funds for enhanced medicaid match for expanded medicaid eligibility.
Sec. 3504. Medicaid presumptive eligibility for low-income children.
Sec. 3505. State option of continuation of Medicaid eligibility for disabled children who lose SSI benefits.

SEC. 3502. ESTABLISHMENT OF CHILD HEALTH ASSISTANCE PROGRAM (CHAP).

The Social Security Act is amended by adding at the end the following new title:

"TITLE XXI—CHILD HEALTH ASSISTANCE PROGRAM

"SEC. 2101. PURPOSE; STATE CHILD HEALTH PLANS.

"(a) PURPOSE.—The purpose of this title is to provide funds to States to enable them to implement plans to initiate and expand the provision of child health care assistance to uninsured, low-income children in an effective and efficient manner that is coordinated

with other sources of coverage for children. Such assistance may be provided for obtaining creditable health coverage through methods specified in the plan, which may include any or all of the following:

"(1) Providing benefits under the State's medicaid plan under title XIX.

"(2) Obtaining coverage under group health plans or group or individual health insurance coverage.

"(3) Direct purchase of services for targeted low-income children from providers, such as Federally qualified health centers and rural health clinics.

"(4) Other methods specified under the plan for the provision of health insurance coverage or medical assistance for targeted low-income children.

"(b) STATE CHILD HEALTH PLAN REQUIRED.—A State is not eligible for payment under section 2104 unless the State has submitted to the Secretary under section 2105 a plan that—

"(1) sets forth how the State intends to use the funds provided under this title to provide child health assistance to needy children consistent with the provisions of this title, and

"(2) is approved under section 2105.

"(c) STATE ENTITLEMENT.—This title 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 provided under section 2104.

"(d) EFFECTIVE DATE.—No State is eligible for payments under section 2104 for any calendar quarter beginning before October 1, 1997.

"SEC. 2102. CONTENTS OF STATE CHILD HEALTH PLAN.

"(a) GENERAL BACKGROUND AND DESCRIPTION.—A State child health plan shall include a description, consistent with the requirements of this title, of—

"(1) the extent to which, and manner in which, children in the State, including targeted low-income children and other classes of children classified by income and other relevant factors, currently have creditable health coverage (as defined in section 2108(c)(2));

"(2) current State efforts to provide or obtain creditable health coverage for uncovered children, including the steps the State is taking to identify and enroll all uncovered children who are eligible to participate in public health insurance programs and health insurance programs that involve public-private partnerships;

"(3) how the plan is designed to be coordinated with such efforts to increase coverage of children under creditable health coverage; and

"(4) how the plan will comply with subsection (c)(5).

"(b) GENERAL DESCRIPTION OF ELIGIBILITY STANDARDS AND METHODOLOGY.—

"(1) ELIGIBILITY STANDARDS.—

"(A) IN GENERAL.—The plan shall include a description of the standards used to determine the eligibility of targeted low-income children for child health assistance under the plan. Such standards may include (to the extent consistent with this title) those relating to the geographic areas to be served by the plan, age, income and resources (including any standards relating to spenddowns and disposition of resources), residency, disability status, immigration status, access to or coverage under other health coverage, and duration of eligibility. Such standards may not discriminate on the basis of diagnosis.

"(B) LIMITATIONS ON ELIGIBILITY STANDARDS.—Such eligibility standards—

"(i) shall, within any defined group of covered targeted low-income children, not cover such children with higher family income without covering children with a lower family income, and

"(ii) may not deny eligibility based on a child having a preexisting medical condition.

"(2) METHODOLOGY.—The plan shall include a description of methods of establishing and continuing eligibility and enrollment, including a methodology for computing family income that is consistent with the methodology used under section 1902(l)(3)(E).

"(3) ELIGIBILITY SCREENING; COORDINATION WITH OTHER HEALTH COVERAGE PROGRAMS.—The plan shall include a description of procedures to be used to ensure—

"(A) through both intake and followup screening, that only targeted low-income children are furnished child health assistance under the State child health plan;

"(B) that children found through the screening to be eligible for medical assistance under the State medicaid plan under title XIX are enrolled for such assistance under such plan;

"(C) that the insurance provided under the State child health plan does not substitute for coverage under group health plans; and

"(D) coordination with other public and private programs providing creditable coverage for low-income children.

"(4) NONENTITLEMENT.—Nothing in this title shall be construed as providing an individual with an entitlement to child health assistance under a State child health plan.

"(c) DESCRIPTION OF ASSISTANCE.—

"(1) IN GENERAL.—A State child health plan shall include a description of the child health assistance provided under the plan for targeted low-income children. The child health assistance provided to a targeted low-income child under the plan in the form described in paragraph (2) of section 2101(a) shall include benefits (in an amount, duration, and scope specified under the plan) for at least the following categories of services:

"(A) Inpatient and outpatient hospital services.

"(B) Physicians' surgical and medical services.

"(C) Laboratory and x-ray services.

"(D) Well-baby and well-child care, including age-appropriate immunizations.

The previous sentence shall not apply to coverage under a group health plan if the benefits under such coverage for individuals under this title are no less than the benefits for other individuals similarly covered under the plan.

"(2) ITEMS.—The description shall include the following:

"(A) COST SHARING.—Subject to paragraph (3), the amount (if any) of premiums, deductibles, coinsurance, and other cost sharing imposed.

"(B) DELIVERY METHOD.—The State's approach to delivery of child health assistance, including a general description of—

"(i) the use (or intended use) of different delivery methods, which may include the delivery methods used under the medicaid plan under title XIX, fee-for-service, managed care arrangements (such as capitated health care plans, case management, and case coordination), direct provision of health care services (such as through community health centers and disproportionate share hospitals), vouchers, and other delivery methods; and

"(ii) utilization control systems.

"(3) LIMITATIONS ON COST SHARING.—

"(A) NO COST SHARING ON PREVENTIVE BENEFITS.—The plan may not impose deductibles, coinsurance, or similar cost sharing with respect to benefits for preventive services.

"(B) SLIDING SCALE.—To the extent practicable, any premiums imposed under the plan shall be imposed on a sliding scale related to income and the plan may only vary premiums, deductibles, coinsurance, and other cost sharing based on the family income of targeted low-income children only in a manner that does not favor children from families with higher income over children from families with lower income.

"(4) RESTRICTION ON APPLICATION OF PREEXISTING CONDITION EXCLUSIONS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the State child health plan shall not permit the imposition of any preexisting condition exclusion for covered benefits under the plan.

"(B) GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.—If the State child health plan provides for benefits through payment for, or a contract with, a group health plan or group health insurance coverage, the plan may permit the imposition of a preexisting condition exclusion but only insofar as it is permitted under the applicable provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 and title XXVII of the Public Health Service Act.

"(5) SPECIAL PROTECTION FOR CHILDREN WITH CHRONIC HEALTH CONDITIONS AND SPECIAL HEALTH CARE NEEDS.—In the case of a child who has a chronic condition, life-threatening condition, or combination of conditions that warrants medical specialty care and who is eligible for benefits under the plan with respect to such care, the State child health plan shall assure access to such care, including the use of a medical specialist as a primary care provider.

"(6) SECONDARY PAYMENT.—Nothing in this section shall be construed as preventing a State from denying benefits to an individual to the extent such benefits are available to the individual under another public or private health care insurance program.

"(7) TREATMENT OF CASH PAYMENTS.—Payments in the form of cash or vouchers provided as child health or other assistance under the State child health plan to parents, guardians or other caretakers of a targeted low-income child are not considered income for purpose of eligibility for, or benefits provided under, any means-tested Federal or Federally-assisted program.

"(d) OUTREACH AND COORDINATION.—A State child health plan shall include a description of the procedures to be used by the State to accomplish the following:

"(1) OUTREACH.—Outreach to families of children likely to be eligible for child health assistance under the plan or under other public or private health coverage programs to inform these families of the availability of, and to assist them in enrolling their children in, such a program.

"(2) COORDINATION WITH OTHER HEALTH INSURANCE PROGRAMS.—Coordination of the administration of the State program under this subtitle with other public and private health insurance programs.

"SEC. 2103. ALLOTMENTS.

"(a) TOTAL ALLOTMENT.—The total allotment that is available under this title for—

"(1) fiscal year 1998 is $2,830,000,000,

"(2) fiscal year 1999 is $2,830,000,000,

"(3) fiscal year 2000 is $2,830,000,000,

"(4) fiscal year 2001 is $2,830,000,000,

"(5) fiscal year 2002 is $2,830,000,000, and

"(6) fiscal year 2003 and each succeeding fiscal year is $2,850,000,000.

"(b) ALLOTMENTS TO 50 STATES AND DISTRICT OF COLUMBIA.—

"(1) IN GENERAL.—Subject to paragraphs (4) and (5), of the total allotment available under subsection (a) for a fiscal year, reduced by the amount of allotments made under subsection (c) for the fiscal year, the Secretary shall allot to each State (other than a State described in such subsection) with a State child health plan approved under this title the same proportion as the ratio of—

"(A) the product of (i) the number of uncovered low-income children for the fiscal year in the State (as determined under paragraph (2)) and (ii) the State cost factor for that State (established under paragraph (3)); to

"(B) the sum of the products computed under subparagraph (A).

"(2) NUMBER OF UNCOVERED LOW-INCOME CHILDREN.—For the purposes of paragraph (1)(A)(i), the number of uncovered low-income children for a fiscal year in a State is equal to the arithmetic average of the number of low-income children (as defined in section 2108(c)(4)) with no health insurance coverage, as reported and defined in the 3 most recent March supplements to the Current Population Survey of the Bureau of the Census before the beginning of the fiscal year.

"(3) ADJUSTMENT FOR GEOGRAPHIC VARIATIONS IN HEALTH COSTS.—

"(A) IN GENERAL.—For purposes of paragraph (1)(A)(ii), the 'State cost factor' for a State for a fiscal year equal to the sum of—

"(i) 0.15, and

"(ii) 0.85 multiplied by the ratio of—

"(I) the annual average wages per employee for the State for such year (as determined under subparagraph (B)), to

"(II) the annual average wages per employee for the 50 States and the District of Columbia.

"(B) ANNUAL AVERAGE WAGES PER EMPLOYEE.—For purposes of subparagraph (A), the 'annual average wages per employee' for a State, or for all the States. for a fiscal year is equal to the average of the annual wages per employee for the State or for the 50 States and the District of Columbia for employees in the health services industry (SIC code 8000), as reported by the Bureau of Labor Statistics of the Department of Labor for each of the for the most recent 3 years before the beginning of the fiscal year involved.

"(4) FLOOR FOR STATES.—Subject to paragraph (5), in no case shall the amount of the allotment under this subsection for one of the 50 States or the District of Columbia for a year be less than $2,000,000. To the extent that the application of the previous sentence results in an increase in the allotment to a State above the amount otherwise provided, the allotments for the other States and the District of Columbia under this subsection shall be decreased in a pro rata manner (but not below $2,000,000) so that the total of such allotments in a fiscal year does not exceed the amount otherwise provided for allotment under paragraph (1) for that fiscal year.

"(5) OFFSET FOR EXPENDITURES UNDER MEDICAID PRESUMPTIVE ELIGIBILITY.—The amount of the allotment otherwise provided to a State under this subsection for a fiscal year shall be reduced by the amount of the payments made to the State under section 1903(a) for calendar quarters during such fiscal year that are attributable to provision of medical assistance to a child during a presumptive eligibility period under section 1920A.

"(c) ALLOTMENTS TO TERRITORIES.—

"(1) IN GENERAL.—Subject to paragraph (3), of the total allotment under subsection (a) for a fiscal year, the Secretary shall allot 0.5 percent among each of the commonwealths and territories described in paragraph (4) in the same proportion as the percentage specified in paragraph (2) for such commonwealth or territory bears to the sum of such percentages for all such commonwealths or territories so described.

"(2) PERCENTAGE.—The percentage specified in this paragraph for—

"(A) Puerto Rico is 91.6 percent,

"(B) Guam is 3.5 percent,

"(C) Virgin Islands is 2.6 percent,

"(D) American Samoa is 1.2 percent, and

"(E) the Northern Mariana Islands is 1.1 percent.

"(3) FLOOR.—In no case shall the amount of the allotment to a commonwealth or territory under paragraph (1) for a fiscal year be less than $100,000. To the extent that the application of the previous sentence results in an increase in the allotment to a commonwealth or territory above the amount otherwise provided, the allotments for the other commonwealths and territories under this subsection for the fiscal year shall be decreased (but not below $100,000) in a pro rata manner so that the total of such allotments does not exceed the total amount otherwise provided for allotment under paragraph (1).

"(4) COMMONWEALTHS AND TERRITORIES.—A commonwealth or territory described in this paragraph is any of the following if it has a State child health plan approved under this title:

"(A) Puerto Rico.

"(B) Guam.

"(C) the Virgin Islands.

"(D) American Samoa.

"(E) the Northern Mariana Islands.

"(d) ADJUSTMENT FOR STATES USING ENHANCED MEDICAID MATCH.—In the case of a State that elects the increased medicaid matching option under section 1905(t), the amount of the State's allotment under this section shall be reduced by the amount of additional payment made under section 1903 that is attributable to the increase in the Federal medical assistance percentage effected under such option.

"(e) 3-YEAR AVAILABILITY OF AMOUNTS ALLOTTED.—Amounts allotted to a State pursuant to this section for a fiscal year shall remain available for expenditure by the State through the end of the second succeeding fiscal year.

"SEC. 2104. PAYMENTS TO STATES.

"(a) IN GENERAL.—Subject to the succeeding provisions of this section, the Secretary shall pay to each State with a program approved under this title, from its allotment under section 2103 (as may be adjusted under section 2103(d)), an amount for each quarter up to 80 percent of expenditures under that program in the quarter for—

"(1) child health assistance for targeted low-income children;

"(2) health services initiatives for improving the health of children (including targeted low-income children and other low-income children);

"(3) expenditures for outreach activities as provided in section 2102(d)(1); and

"(4) other reasonable costs incurred by the State to administer the plan.

"(b) LIMITATION ON CERTAIN PAYMENTS FOR CERTAIN EXPENDITURES.—

"(1) IN GENERAL.—Funds provided to a State under this title shall only be used to carry out the purposes of this title.

"(2) LIMITATION ON EXPENDITURES NOT USED FOR ASSISTANCE.—Payment shall not be made under subsection (a) for expenditures for items described in paragraphs (2), (3), or (4) of subsection to the extent the total of such expenditures exceeds 15 percent of total expenditures under the plan for the period involved (including any in such total additional Federal medical assistance payments under section 1903(a)(1) that are attributable to an enhanced State medicaid match under section 1905(t)).

"(3) PURCHASE OF FAMILY COVERAGE.—The Secretary shall establish rules regarding the extent to which payment may be made under subsection (a)(1) for the purchase of family coverage under a group health plan or health insurance coverage that includes coverage of targeted low-income children. Under such rules such payment may be permitted, notwithstanding that a portion may be considered attributable to purchase of coverage for other family members, if the State demonstrates that purchase of such coverage is cost effective relative to the amounts that the State would have paid to obtain comparable coverage only of the targeted low-income children involved. In making such determination, there shall be taken into account the costs of providing coverage for medical assistance for children with similar actuarial characteristics under section 1902(l).

"(4) DENIAL OF PAYMENT FOR REDUCTION OF MEDICAID ELIGIBILITY STANDARDS.—No payment may be made under subsection (a) with respect to child health assistance provided under a State child health plan to a targeted low-income child if the child would be eligible for medical assistance under the State plan under title XIX (as such plan was in effect as of June 1, 1997) but for a change in the income or assets standards or methodology under such plan effected after such date.

"(5) DISALLOWANCES FOR EXCLUDED PROVIDERS.—

"(A) IN GENERAL.—Payment shall not be made to a State under subsection (a) for expenditures for items and services furnished—

"(i) by a provider who was excluded from participation under title V, XVIII, or XX or under this title pursuant to section 1128, 1128A, 1156, or 1842(j)(2), or

"(ii) under the medical direction or on the prescription of a physician who was so excluded, if the provider of the services knew or had reason to know of the exclusion.

"(B) EXCEPTION FOR EMERGENCY SERVICES.—Subparagraph (A) shall not apply to emergency items or services, not including hospital emergency room services.

"(6) USE OF NON-FEDERAL FUNDS FOR STATE MATCHING REQUIREMENT.—Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of non-Federal contributions required under subsection (a).

"(7) TREATMENT OF THIRD PARTY LIABILITY.—No payment shall be made to a State under this section for expenditures for child health assistance provided for a targeted low-income child under its plan to the extent that a private insurer (as defined by the Secretary by regulation and including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), a service benefit plan, and a health maintenance organization) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided child health assistance under the plan.

"(8) SECONDARY PAYER PROVISIONS.—Except as otherwise provided by law, no payment

shall be made to a State under this section for expenditures for child health assistance provided for a targeted low-income child under its plan to the extent that payment has been made or can reasonably be expected to be made promptly (as determined in accordance with regulations) under any other federally operated or financed health care insurance program, other than an insurance program operated or financed by the Indian Health Service, as identified by the Secretary. For purposes of this paragraph, rules similar to the rules for overpayments under section 1903(d)(2) shall apply.

"(9) LIMITATION ON PAYMENT FOR ABORTIONS.—

"(A) IN GENERAL.—Payment shall not be made to a State under this section for any amount expended under the State plan to pay for any abortion or to assist in the purchase, in whole or in part, of health benefit coverage that includes coverage of abortion.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to an abortion—

"(i) if the pregnancy is the result of an act of rape or incest, or

"(ii) in the case where a woman suffers from a physical disorder, illness, or injury that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.

"(c) ADVANCE PAYMENT; RETROSPECTIVE ADJUSTMENT.—The Secretary may make payments under this section for each quarter on the basis of advance estimates of expenditures submitted by the State and other investigation the Secretary may find necessary, and may reduce or increase the payments as necessary to adjust for any overpayment or underpayment for prior quarters.

"SEC. 2105. PROCESS FOR SUBMISSION, APPROVAL, AND AMENDMENT OF STATE CHILD HEALTH PLANS.

"(a) INITIAL PLAN.—

"(1) IN GENERAL.—As a condition of receiving funding under section 2104, a State shall submit to the Secretary a State child health plan that meets the applicable requirements of this title.

"(2) APPROVAL.—Except as the Secretary may provide under subsection (e), a State plan submitted under paragraph (1)—

"(A) shall be approved for purposes of this title, and

"(B) shall be effective beginning with a calendar quarter that is specified in the plan, but in no case earlier than the first calendar quarter that begins at least 60 days after the date the plan is submitted.

"(b) PLAN AMENDMENTS.—

"(1) IN GENERAL.—A State may amend, in whole or in part, its State child health plan at any time through transmittal of a plan amendment.

"(2) APPROVAL.—except as the secretary may provide under subsection (e), an amendment to a state plan submitted under paragraph (1)—

"(A) shall be approved for purposes of this title, and

"(B) shall be effective as provided in paragraph (3).

"(3) EFFECTIVE DATES FOR AMENDMENTS.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, an amendment to a State plan shall take effect on one or more effective dates specified in the amendment.

"(B) AMENDMENTS RELATING TO ELIGIBILITY OR BENEFITS.—

"(i) NOTICE REQUIREMENT.—Any plan amendment that eliminates or restricts eligibility or benefits under the plan may not take effect unless the State certifies that it has provided prior or contemporaneous public notice of the change, in a form and manner provided under applicable State law.

"(ii) TIMELY TRANSMITTAL.—Any plan amendment that eliminates or restricts eligibility or benefits under the plan shall not be effective for longer than a 60-day period unless the amendment has been transmitted to the Secretary before the end of such period.

"(C) OTHER AMENDMENTS.—Any plan amendment that is not described in subparagraph (C) becomes effective in a State fiscal year may not remain in effect after the end of such fiscal year (or, if later, the end of the 90-day period on which it becomes effective) unless the amendment has been transmitted to the Secretary.

"(c) DISAPPROVAL OF PLANS AND PLAN AMENDMENTS.—

"(1) PROMPT REVIEW OF PLAN SUBMITTALS.—The Secretary shall promptly review State plans and plan amendments submitted under this section to determine if they substantially comply with the requirements of this title.

"(2) 90-DAY APPROVAL DEADLINES.—A State plan or plan amendment is considered approved unless the Secretary notifies the State in writing, within 90 days after receipt of the plan or amendment, that the plan or amendment is disapproved (and the reasons for disapproval) or that specified additional information is needed.

"(3) CORRECTION.—In the case of a disapproval of a plan or plan amendment, the Secretary shall provide a State with a reasonable opportunity for correction before taking financial sanctions against the State on the basis of such disapproval.

"(d) PROGRAM OPERATION.—

"(1) IN GENERAL.—The State shall conduct the program in accordance with the plan (and any amendments) approved under subsection (c) and with the requirements of this title.

"(2) VIOLATIONS.—The Secretary shall establish a process for enforcing requirements under this title. Such process shall provide for the withholding of funds in the case of substantial noncompliance with such requirements. In the case of an enforcement action against a State under this paragraph, the Secretary shall provide a State with a reasonable opportunity for correction before taking financial sanctions against the State on the basis of such an action.

"(e) CONTINUED APPROVAL.—An approved State child health plan shall continue in effect unless and until the State amends the plan under subsection (b) or the Secretary finds substantial noncompliance of the plan with the requirements of this title under section subsection (d)(2).

"SEC. 2106. STRATEGIC OBJECTIVES AND PERFORMANCE GOALS; PLAN ADMINISTRATION.

"(a) STRATEGIC OBJECTIVES AND PERFORMANCE GOALS.—

"(1) DESCRIPTION.—A State child health plan shall include a description of—

"(A) the strategic objectives,

"(B) the performance goals, and

"(C) the performance measures,

the State has established for providing child health assistance to targeted low-income children under the plan and otherwise for maximizing health coverage for other low-income children and children generally in the State.

"(2) STRATEGIC OBJECTIVES.—Such plan shall identify specific strategic objectives relating to increasing the extent of creditable health coverage among targeted low-income children and other low-income children.

"(3) PERFORMANCE GOALS.—Such plan shall specify one or more performance goals for each such strategic objective so identified.

"(4) PERFORMANCE MEASURES.—Such plan shall describe how performance under the plan will be—

"(A) measured through objective, independently verifiable means, and

"(B) compared against performance goals, in order to determine the State's performance under this title.

"(b) RECORDS, REPORTS, AUDITS, AND EVALUATION.—

"(1) DATA COLLECTION, RECORDS, AND REPORTS.—A State child health plan shall include an assurance that the State will collect the data, maintain the records, and furnish the reports to the Secretary, at the times and in the standardized format the Secretary may require in order to enable the Secretary to monitor State program administration and compliance and to evaluate and compare the effectiveness of State plans under this title.

"(2) STATE ASSESSMENT AND STUDY.—A State child health plan shall include a description of the State's plan for the annual assessments and reports under section 2107(a) and the evaluation required by section 2107(b).

"(3) AUDITS.—A State child health plan shall include an assurance that the State will afford the Secretary access to any records or information relating to the plan for the purposes of review or audit.

"(c) PROGRAM DEVELOPMENT PROCESS.—A State child health plan shall include a description of the process used to involve the public in the design and implementation of the plan and the method for ensuring ongoing public involvement.

"(d) PROGRAM BUDGET.—A State child health plan shall include a description of the budget for the plan. The description shall be updated periodically as necessary and shall include details on the planned use of funds and the sources of the non-Federal share of plan expenditures, including any requirements for cost sharing by beneficiaries.

"(e) APPLICATION OF CERTAIN GENERAL PROVISIONS.—The following sections in part A of title XI shall apply to States under this title in the same manner as they applied to a State under title XIX:

"(1) Section 1101(a)(1) (relating to definition of State).

"(2) Section 1116 (relating to administrative and judicial review), but only insofar as consistent with the provisions of part B.

"(3) Section 1124 (relating to disclosure of ownership and related information).

"(4) Section 1126 (relating to disclosure of information about certain convicted individuals).

"(5) Section 1128B(d) (relating to criminal penalties for certain additional charges).

"(6) Section 1132 (relating to periods within which claims must be filed).

"SEC. 2107. ANNUAL REPORTS; EVALUATIONS.

"(a) ANNUAL REPORT.—The State shall—

"(1) assess the operation of the State plan under this title in each fiscal year, including the progress made in reducing the number of uncovered low-income children; and

"(2) report to the Secretary, by January 1 following the end of the fiscal year, on the result of the assessment.

"(b) STATE EVALUATIONS.—

"(1) IN GENERAL.—By March 31, 2000, each State that has a State child health plan shall submit to the Secretary an evaluation that includes each of the following:

"(A) An assessment of the effectiveness of the State plan in increasing the number of children with creditable health coverage.;

"(B) A description and analysis of the effectiveness of elements of the State plan, including—

"(i) the characteristics of the children and families assisted under the State plan including age of the children, family income, and the assisted child's access to or coverage by other health insurance prior to the State plan and after eligibility for the State plan ends,

"(ii) the quality of health coverage provided including the types of benefits provided,

"(iii) the amount and level (payment of part or all of the premium) of assistance provided by the State,

"(iv) the service area of the State plan,

"(v) the time limits for coverage of a child under the State plan,

"(vi) the State's choice of health insurance plans and other methods used for providing child health assistance , and

"(vii) the sources of non-Federal funding used in the State plan;

"(C) an assessment of the effectiveness of other public and private programs in the State in increasing the availability of affordable quality individual and family health insurance for children;

"(D) a review and assessment of State activities to coordinate the plan under this title with other public and private programs providing health care and health care financing, including Medicaid and maternal and child health services;

"(E) an analysis of changes and trends in the State that affect the provision of accessible, affordable, quality health insurance and health care to children;

"(F) a description of any plans the State has for improving the availability of health insurance and health care for children;

"(G) recommendations for improving the program under this title; and

"(H) any other matters the State and the Secretary consider appropriate.

"(2) REPORT OF THE SECRETARY.—The Secretary shall submit to the Congress and make available to the public by December 31, 2000, a report based on the evaluations submitted by States under paragraph (1), containing any conclusions and recommendations the Secretary considers appropriate.

"SEC. 2108. DEFINITIONS.

"(a) CHILD HEALTH ASSISTANCE.—For purposes of this title, the term 'child health assistance' means payment of part or all of the cost of any of the following, or assistance in the purchase, in whole or in part, of health benefit coverage that includes any of the following, for targeted low-income children (as defined in subsection (b)) as specified under the State plan:

"(1) Inpatient hospital services.

"(2) Outpatient hospital services.

"(3) Physician services.

"(4) Surgical services.

"(5) Clinic services (including health center services) and other ambulatory health care services.

"(6) Prescription drugs and biologicals and the administration of such drugs and biologicals, only if such drugs and biologicals are not furnished for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.

"(7) Over-the-counter medications.

"(8) Laboratory and radiological services.

"(9) Prenatal care and prepregnancy family planning services and supplies.

"(10) Inpatient mental health services, including services furnished in a State-operated mental hospital and including residential or other 24-hour therapeutically planned structured services.

"(11) Outpatient mental health services, including services furnished in a State-operated mental hospital and including community-based services.

"(12) Durable medical equipment and other medically-related or remedial devices (such as prosthetic devices, implants, eyeglasses, hearing aids, dental devices, and adaptive devices).

"(13) Disposable medical supplies.

"(14) Home and community-based health care services and related supportive services (such as home health nursing services, home health aide services, personal care, assistance with activities of daily living, chore services, day care services, respite care services, training for family members, and minor modifications to the home).

"(15) Nursing care services (such as nurse practitioner services, nurse midwife services, advanced practice nurse services, private duty nursing care, pediatric nurse services, and respiratory care services) in a home, school, or other setting.

"(16) Abortion only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.

"(17) Dental services.

"(18) Inpatient substance abuse treatment services and residential substance abuse treatment services.

"(19) Outpatient substance abuse treatment services.

"(20) Case management services.

"(21) Care coordination services.

"(22) Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders.

"(23) Hospice care.

"(24) Any other medical, diagnostic, screening, preventive, restorative, remedial, therapeutic, or rehabilitative services (whether in a facility, home, school, or other setting) if recognized by State law and only if the service is—

"(A) prescribed by or furnished by a physician or other licensed or registered practitioner within the scope of practice as defined by State law,

"(B) performed under the general supervision or at the direction of a physician, or

"(C) furnished by a health care facility that is operated by a State or local government or is licensed under State law and operating within the scope of the license.

"(25) Premiums for private health care insurance coverage.

"(26) Medical transportation.

"(27) Enabling services (such as transportation, translation, and outreach services) only if designed to increase the accessibility of primary and preventive health care services for eligible low-income individuals.

"(28) Any other health care services or items specified by the Secretary and not excluded under this section.

"(b) TARGETED LOW-INCOME CHILD DEFINED.—For purposes of this title—

"(1) IN GENERAL.—The term 'targeted low-income child' means a child—

"(A) who has been determined eligible by the State for child health assistance under the State plan;

"(B) whose family income (as determined under the State child health plan)—

"(i) exceeds the medicaid applicable income level (as defined in paragraph (2) and expressed as a percentage of the poverty line), but

"(ii) but does not exceed an income level that is 75 percentage points higher (as so expressed) than the medicaid applicable income level, or, if higher, 133 percent of the poverty line for a family of the size involved; and

"(C) who is not found to be eligible for medical assistance under title XIX or covered under a group health plan or under health insurance coverage (as such terms are defined in section 2791 of the Public Health Service Act).

Such term does not include a child who is an inmate of a public institution.

"(2) MEDICAID APPLICABLE INCOME LEVEL.—The term 'medicaid applicable income level' means, with respect to a child, the effective income level (expressed as a percent of the poverty line) that has been specified under the State plan under title XIX (including under a waiver authorized by the Secretary or under section 1902(r)(2)), as of June 1, 1997, for the child to be eligible for medical assistance under section 1902(l)(2) for the age of such child. In applying the previous sentence in the case of a child described in section 1902(l)(2)(D), such level shall be applied taking into account the expanded coverage effected among such children under such section with the passage of time.

"(c) ADDITIONAL DEFINITIONS.—For purposes of this title:

"(1) CHILD.—The term 'child' means an individual under 19 years of age.

"(2) CREDITABLE HEALTH COVERAGE.—The term 'creditable health coverage' has the meaning given the term 'creditable coverage' under section 2701(c) of the Public Health Service Act (42 U.S.C. 300gg(c)) and includes coverage (including the direct provision of services) provided to a targeted low-income child under this title.

"(3) GROUP HEALTH PLAN; HEALTH INSURANCE COVERAGE; ETC.—The terms 'group health plan', 'group health insurance coverage', and 'health insurance coverage' have the meanings given such terms in section 2191 of the Public Health Service Act.

"(4) LOW-INCOME.—The term 'low-income child' means a child whose family income is below 300 percent of the poverty line for a family of the size involved.

"(5) POVERTY LINE DEFINED.—The term 'poverty line' has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

"(6) PREEXISTING CONDITION EXCLUSION.—The term 'preexisting condition exclusion' has the meaning given such term in section 2701(b)(1)(A) of the Public Health Service Act (42 U.S.C. 300gg(b)(1)(A)).

"(7) STATE CHILD HEALTH PLAN; PLAN.—Unless the context otherwise requires, the terms 'State child health plan' and 'plan' mean a State child health plan approved under section 2105.

"(8) UNCOVERED CHILD.—The term 'uncovered child' means a child that does not have creditable health coverage.".

(b) CONFORMING AMENDMENTS.—

(1) DEFINITION OF STATE.—Section 1101(a)(1) is amended—

(A) by striking "and XIX" and inserting "XIX, and XXI", and

(B) by striking "title XIX" and inserting "titles XIX and XXI".

SEC. 3503. OPTIONAL USE OF STATE CHILD HEALTH ASSISTANCE FUNDS FOR ENHANCED MEDICAID MATCH FOR EXPANDED MEDICAID ELIGIBILITY.

(a) INCREASED FMAP FOR MEDICAL ASSISTANCE FOR EXPANDED COVERAGE OF TARGETED LOW-INCOME CHILDREN.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(1) in subsection (b), by adding at the end the following new sentence: "Notwithstanding the first sentence of this subsection, in the case of a State plan that meets the condition described in subsection (t)(1), with respect to expenditures for medical assistance for optional targeted low-income children described in subsection (t)(2), the Federal medical assistance percentage is equal to the enhanced medical assistance percentage described in subsection (t)(3).";
and

(2) by adding at the end the following new subsection:

"(t)(1) The conditions described in this paragraph for a State plan are as follows:

"(A) The plan is not applying income and resource standards and methodologies for the purpose of determining eligibility of individuals under section 1902(l) that are more restrictive than those applied as of June 1, 1997, for the purpose of determining eligibility of individuals under such section.

"(B) The plan provides for such reporting of information about expenditures and payments attributable to the operation of this subsection as the Secretary deems necessary in order to carry out sections 2103(d) and 2104(b)(2).

"(C) The amount of the increased payments under section 1903(a) resulting from the application of this subsection does not exceed the total amount of any allotment not otherwise expended by the State under section 2103 for the period involved.

"(2) For purposes of subsection (b), the term 'optional targeted low-income child' means a targeted low-income child described in section 2108(b)(1) who would not qualify for medical assistance under the State plan under this title based on such plan as in effect on June 1, 1997 (taking into account the process of individuals aging into eligibility under section 1902(l)(2)(D)).

"(3) The enhanced medical assistance percentage described in this paragraph for a State is equal to the Federal medical assistance percentage (as defined in the first sentence of subsection (b)) for the State increased by a number of percentage points equal to 30 percent of the number of percentage points by which (A) such Federal medical assistance percentage for the State, is less than (B) 100 percent.

"(4) Notwithstanding any other provision of this title, a State plan under this title may impose a limit on the number of optional targeted low-income children described in paragraph (2).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance for items and services furnished on or after October 1, 1997.

SEC. 3504. MEDICAID PRESUMPTIVE ELIGIBILITY FOR LOW-INCOME CHILDREN.

(a) IN GENERAL.—Title XIX of the Social Security Act is amended by inserting after section 1920 the following new section:

"PRESUMPTIVE ELIGIBILITY FOR CHILDREN

"SEC. 1920A. (a) A State plan approved under section 1902 may provide for making medical assistance with respect to health care items and services covered under the State plan available to a child during a presumptive eligibility period.

"(b) For purposes of this section:

"(1) The term 'child' means an individual under 19 years of age.

"(2) The term 'presumptive eligibility period' means, with respect to a child, the period that—

"(A) begins with the date on which a qualified entity determines, on the basis of preliminary information, that the family income of the child does not exceed the applicable income level of eligibility under the State plan, and

"(B) ends with (and includes) the earlier of—

"(i) the day on which a determination is made with respect to the eligibility of the child for medical assistance under the State plan, or

"(ii) in the case of a child on whose behalf an application is not filed by the last day of the month following the month during which the entity makes the determination referred to in subparagraph (A), such last day.

"(3)(A) Subject to subparagraph (B), the term 'qualified entity' means any entity that—

"(i)(I) is eligible for payments under a State plan approved under this title and provides items and services described in subsection (a) or (II) is authorized to determine eligibility of a child to participate in a Head Start program under the Head Start Act (42 U.S.C. 9821 et seq.), eligibility of a child to receive child care services for which financial assistance is provided under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.), eligibility of an infant or child to receive assistance under the special supplemental nutrition program for women, infants, and children (WIC) under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786); and

"(ii) is determined by the State agency to be capable of making determinations of the type described in paragraph (1)(A).

"(B) The Secretary may issue regulations further limiting those entities that may become qualified entities in order to prevent fraud and abuse and for other reasons.

"(C) Nothing in this section shall be construed as preventing a State from limiting the classes of entities that may become qualified entities, consistent with any limitations imposed under subparagraph (B).

"(c)(1) The State agency shall provide qualified entities with—

"(A) such forms as are necessary for an application to be made on behalf of a child for medical assistance under the State plan, and

"(B) information on how to assist parents, guardians, and other persons in completing and filing such forms.

"(2) A qualified entity that determines under subsection (b)(1)(A) that a child is presumptively eligible for medical assistance under a State plan shall—

"(A) notify the State agency of the determination within 5 working days after the date on which determination is made, and

"(B) inform the parent or custodian of the child at the time the determination is made that an application for medical assistance under the State plan is required to be made by not later than the last day of the month following the month during which the determination is made.

"(3) In the case of a child who is determined by a qualified entity to be presumptively eligible for medical assistance under a State plan, the parent, guardian, or other person shall make application on behalf of the child for medical assistance under such plan by not later than the last day of the month following the month during which the determination is made, which application may be the application used for the receipt of medical assistance by individuals described in section 1902(l)(1).

"(d) Notwithstanding any other provision of this title, medical assistance for items and services described in subsection (a) that—

"(1) are furnished to a child—

"(A) during a presumptive eligibility period,

"(B) by a entity that is eligible for payments under the State plan; and

"(2) are included in the care and services covered by a State plan;

shall be treated as medical assistance provided by such plan for purposes of section 1903.".

(b) CONFORMING AMENDMENTS.—(1) Section 1902(a)(47) of such Act (42 U.S.C. 1396a(a)(47)) is amended by inserting before the semicolon at the end the following: "and provide for making medical assistance for items and services described in subsection (a) of section 1920A available to children during a presumptive eligibility period in accordance with such section".

(2) Section 1903(u)(1)(D)(v) of such Act (42 U.S.C. 1396b(u)(1)(D)(v)) of such Act is amended by inserting before the period at the end the following: "or for items and services described in subsection (a) of section 1920A provided to a child during a presumptive eligibility period under such section".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 3505. STATE OPTION OF CONTINUATION OF MEDICAID ELIGIBILITY FOR DISABLED CHILDREN WHO LOSE SSI BENEFITS.

Section 1902(a)(10)(A)(ii) (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(1) by striking "or" at the end of subclause (XI),

(2) by striking "or" at the end of subclause (XII), and

(3) by adding at the end the following:

"(XIII) with respect to whom supplemental security income benefits were being paid under title XVI as of the date of the enactment of section 211(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104–193)) and would continue to be paid but for the enactment of that section;".

TITLE IV—COMMITTEE ON COMMERCE—MEDICARE

SEC. 4000. AMENDMENTS TO SOCIAL SECURITY ACT AND REFERENCES TO OBRA; TABLE OF CONTENTS OF TITLE.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) REFERENCES TO OBRA.—In this title, the terms "OBRA–1986", "OBRA–1987", "OBRA–1989", "OBRA–1990", and "OBRA–1993" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66), respectively.

(c) TABLE OF CONTENTS OF TITLE.—The table of contents of this title is as follows:

Sec. 4000. Amendments to Social Security Act and references to OBRA; table of contents of title.

Subtitle A—MedicarePlus Program

CHAPTER 1—MEDICAREPLUS PROGRAM

SUBCHAPTER A—MEDICAREPLUS PROGRAM

Sec. 4001. Establishment of MedicarePlus program.

"PART C—MEDICAREPLUS PROGRAM

"Sec. 1851. Eligibility, election, and enrollment.

"Sec. 1852. Benefits and beneficiary protections.
"Sec. 1853. Payments to MedicarePlus organizations.
"Sec. 1854. Premiums.
"Sec. 1855. Organizational and financial requirements for MedicarePlus organizations; provider-sponsored organizations.
"Sec. 1856. Establishment of standards.
"Sec. 1857. Contracts with MedicarePlus organizations.
"Sec. 1859. Definitions; miscellaneous provisions.
Sec. 4002. Transitional rules for current medicare HMO program.
Sec. 4003. Conforming changes in medigap program.

SUBCHAPTER B—SPECIAL RULES FOR MEDICAREPLUS MEDICAL SAVINGS ACCOUNTS

Sec. 4006. MedicarePlus MSA.

SUBCHAPTER C—GME, IME, AND DSH PAYMENTS FOR MANAGED CARE ENROLLEES

Sec. 4008. Graduate medical education and indirect medical education payments for managed care enrollees.
Sec. 4009. Disproportionate share hospital payments for managed care enrollees.

CHAPTER 2—INTEGRATED LONG-TERM CARE PROGRAMS

SUBCHAPTER A—PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

Sec. 4011. Reference to coverage of PACE under the medicare program.
Sec. 4012. Reference to establishment of PACE program as medicaid State option.

SUBCHAPTER B—SOCIAL HEALTH MAINTENANCE ORGANIZATIONS (SHMOS)

Sec. 4015. Social health maintenance organizations (SHMOs).

SUBCHAPTER C—OTHER PROGRAMS

Sec. 4018. Orderly transition of municipal health service demonstration projects.
Sec. 4019. Extension of certain medicare community nursing organization demonstration projects.

CHAPTER 3—MEDICARE PAYMENT ADVISORY COMMISSION

Sec. 4021. Medicare Payment Advisory Commission.

CHAPTER 4—MEDIGAP PROTECTIONS

Sec. 4031. Medigap protections.
Sec. 4032. Medicare prepaid competitive pricing demonstration project.

Subtitle B—Prevention Initiatives

Sec. 4101. Screening mammography.
Sec. 4102. Screening pap smear and pelvic exams.
Sec. 4103. Prostate cancer screening tests.
Sec. 4104. Coverage of colorectal screening.
Sec. 4105. Diabetes screening tests.
Sec. 4106. Standardization of medicare coverage of bone mass measurements.
Sec. 4107. Vaccines outreach expansion.
Sec. 4108. Study on preventive benefits.

Subtitle C—Rural Initiatives

Sec. 4206. Informatics, telemedicine, and education demonstration project.

Subtitle D—Anti-Fraud and Abuse Provisions

Sec. 4301. Permanent exclusion for those convicted of 3 health care related crimes.
Sec. 4302. Authority to refuse to enter into medicare agreements with individuals or entities convicted of felonies.
Sec. 4303. Inclusion of toll-free number to report medicare waste, fraud, and abuse in explanation of benefits forms.
Sec. 4304. Liability of medicare carriers and fiscal intermediaries for claims submitted by excluded providers.
Sec. 4305. Exclusion of entity controlled by family member of a sanctioned individual.
Sec. 4306. Imposition of civil money penalties.
Sec. 4307. Disclosure of information and surety bonds.
Sec. 4308. Provision of certain identification numbers.
Sec. 4309. Advisory opinions regarding certain physician self-referral provisions.
Sec. 4310. Nondiscrimination in post-hospital referral to home health agencies.
Sec. 4311. Other fraud and abuse related provisions.

Subtitle E—Prospective Payment Systems

CHAPTER 2—PAYMENT UNDER PART B

SUBCHAPTER A—PAYMENT FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES

Sec. 4411. Elimination of formula-driven overpayments (FDO) for certain outpatient hospital services.
Sec. 4412. Extension of reductions in payments for costs of hospital outpatient services.
Sec. 4413. Prospective payment system for hospital outpatient department services.

SUBCHAPTER B—REHABILITATION SERVICES

Sec. 4421. Rehabilitation agencies and services.
Sec. 4422. Comprehensive outpatient rehabilitation facilities (corf).

SUBCHAPTER C—AMBULANCE SERVICES

Sec. 4431. Payments for ambulance services.
Sec. 4432. Demonstration of coverage of ambulance services under medicare through contracts with units of local government.

CHAPTER 3—PAYMENT UNDER PARTS A AND B

Sec. 4441. Prospective payment for home health services.

Subtitle G—Provisions Relating to Part B Only

CHAPTER 1—PHYSICIANS' SERVICES

Sec. 4601. Establishment of single conversion factor for 1998.
Sec. 4602. Establishing update to conversion factor to match spending under sustainable growth rate.
Sec. 4603. Replacement of volume performance standard with sustainable growth rate.
Sec. 4604. Payment rules for anesthesia services.
Sec. 4605. Implementation of resource-based physician practice expense.
Sec. 4606. Dissemination of information on high per admission relative values for in-hospital physicians' services.
Sec. 4607. No X-ray required for chiropractic services.
Sec. 4608. Temporary coverage restoration for portable electrocardiogram transportation.

CHAPTER 2—OTHER PAYMENT PROVISIONS

Sec. 4611. Payments for durable medical equipment.
Sec. 4612. Oxygen and oxygen equipment.
Sec. 4613. Reduction in updates to payment amounts for clinical diagnostic laboratory tests.
Sec. 4614. Simplification in administration of laboratory services benefit.
Sec. 4615. Updates for ambulatory surgical services.
Sec. 4616. Reimbursement for drugs and biologicals.
Sec. 4617. Coverage of oral anti-nausea drugs under chemotherapeutic regimen.
Sec. 4618. Rural health clinic services.
Sec. 4619. Increased medicare reimbursement for nurse practitioners and clinical nurse specialists.
Sec. 4620. Increased medicare reimbursement for physician assistants.
Sec. 4621. Renal dialysis-related services.
Sec. 4622. Payment for cochlear implants as customized durable medical equipment.

CHAPTER 3—PART B PREMIUM

Sec. 4631. Part B premium.

Subtitle H—Provisions Relating to Parts A and B

CHAPTER 1—PROVISIONS RELATING TO MEDICARE SECONDARY PAYER

Sec. 4701. Permanent extension and revision of certain secondary payer provisions.
Sec. 4702. Clarification of time and filing limitations.
Sec. 4703. Permitting recovery against third party administrators.

CHAPTER 2—HOME HEALTH SERVICES

Sec. 4711. Recapturing savings resulting from temporary freeze on payment increases for home health services.
Sec. 4712. Interim payments for home health services.
Sec. 4713. Clarification of part-time or intermittent nursing care.
Sec. 4714. Study of definition of homebound.
Sec. 4715. Payment based on location where home health service is furnished.
Sec. 4716. Normative standards for home health claims denials,
Sec. 4717. No home health benefits based solely on drawing blood.
Sec. 4718. Making part B primary payor for certain home health services.

CHAPTER 3—BABY BOOM GENERATION MEDICARE COMMISSION

Sec. 4721. Bipartisan Commission on the Effect of the Baby Boom Generation on the Medicare Program.

CHAPTER 4—PROVISIONS RELATING TO DIRECT GRADUATE MEDICAL EDUCATION

Sec. 4731. Limitation on payment based on number of residents and implementation of rolling average FTE count.
Sec. 4732. Phased-in limitation on hospital overhead and supervisory physician component of direct medical education costs.
Sec. 4733. Permitting payment to non-hospital providers.
Sec. 4734. Incentive payments under plans for voluntary reduction in number of residents.
Sec. 4735. Demonstration project on use of consortia.
Sec. 4736. Recommendations on long-term payment policies regarding financing teaching hospitals and graduate medical education.
Sec. 4737. Medicare special reimbursement rule for certain combined residency programs.

CHAPTER 5—OTHER PROVISIONS

Sec. 4741. Centers of excellence.

Sec. 4742. Medicare part B special enrollment period and waiver of part B late enrollment penalty and medigap special open enrollment period for certain military retirees and dependents.
Sec. 4743. Competitive bidding for certain items and services.

Subtitle I—Medical Liability Reform

CHAPTER 1—GENERAL PROVISIONS

Sec. 4801. Federal reform of health care liability actions.
Sec. 4802. Definitions.
Sec. 4803. Effective date.

CHAPTER 2—UNIFORM STANDARDS FOR HEALTH CARE LIABILITY ACTIONS

Sec. 4811. Statute of limitations.
Sec. 4812. Calculation and payment of damages.
Sec. 4813. Alternative dispute resolution.

Subtitle A—MedicarePlus Program

CHAPTER 1—MEDICAREPLUS PROGRAM

Subchapter A—MedicarePlus Program

SEC. 4001. ESTABLISHMENT OF MEDICAREPLUS PROGRAM.

(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—MEDICAREPLUS PROGRAM

"ELIGIBILITY, ELECTION, AND ENROLLMENT

"SEC. 1851. (a) CHOICE OF MEDICARE BENEFITS THROUGH MEDICAREPLUS PLANS.—

"(1) IN GENERAL.—Subject to the provisions of this section, each MedicarePlus eligible individual (as defined in paragraph (3)) is entitled to elect to receive benefits under this title—

"(A) through the medicare fee-for-service program under parts A and B, or

"(B) through enrollment in a MedicarePlus plan under this part.

"(2) TYPES OF MEDICAREPLUS PLANS THAT MAY BE AVAILABLE.—A MedicarePlus plan may be any of the following types of plans of health insurance:

"(A) COORDINATED CARE PLANS.—Coordinated care plans which provide health care services, including health maintenance organization plans and preferred provider organization plans.

"(B) PLANS OFFERED BY PROVIDER-SPONSORED ORGANIZATION.—A MedicarePlus plan offered by a provider-sponsored organization, as defined in section 1855(e).

"(C) COMBINATION OF MSA PLAN AND CONTRIBUTIONS TO MEDICAREPLUS MSA.—An MSA plan, as defined in section 1859(b)(2), and a contribution into a MedicarePlus medical savings account (MSA).

"(3) MEDICAREPLUS ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—In this title, subject to subparagraph (B), the term 'MedicarePlus eligible individual' means an individual who is entitled to benefits under part A and enrolled under part B.

"(B) SPECIAL RULE FOR END-STAGE RENAL DISEASE.—Such term shall not include an individual medically determined to have end-stage renal disease, except that an individual who develops end-stage renal disease while enrolled in a MedicarePlus plan may continue to be enrolled in that plan.

"(b) SPECIAL RULES.—

"(1) RESIDENCE REQUIREMENT.—

"(A) IN GENERAL.—Except as the Secretary may otherwise provide, an individual is eligible to elect a MedicarePlus plan offered by a MedicarePlus organization only if the organization serves the geographic area in which the individual resides.

"(B) CONTINUATION OF ENROLLMENT PERMITTED.—Pursuant to rules specified by the Secretary, the Secretary shall provide that an individual may continue enrollment in a plan, notwithstanding that the individual no longer resides in the service area of the plan, so long as the plan provides benefits for enrollees located in the area in which the individual resides.

"(2) SPECIAL RULE FOR CERTAIN INDIVIDUALS COVERED UNDER FEHBP OR ELIGIBLE FOR VETERANS OR MILITARY HEALTH BENEFITS, VETERANS .—

"(A) FEHBP.—An individual who is enrolled in a health benefit plan under chapter 89 of title 5, United States Code, is not eligible to enroll in an MSA plan until such time as the Director of the Office of Management and Budget certifies to the Secretary that the Office of Personnel Management has adopted policies which will ensure that the enrollment of such individuals in such plans will not result in increased expenditures for the Federal Government for health benefit plans under such chapter.

"(B) VA AND DOD.—The Secretary may apply rules similar to the rules described in subparagraph (A) in the case of individuals who are eligible for health care benefits under chapter 55 of title 10, United States Code, or under chapter 17 of title 38 of such Code.

"(3) LIMITATION ON ELIGIBILITY OF QUALIFIED MEDICARE BENEFICIARIES AND OTHER MEDICAID BENEFICIARIES TO ENROLL IN AN MSA PLAN.—An individual who is a qualified medicare beneficiary (as defined in section 1905(p)(1)), a qualified disabled and working individual (described in section 1905(s)), an individual described in section 1902(a)(10)(E)(iii), or otherwise entitled to medicare cost-sharing under a State plan under title XIX is not eligible to enroll in an MSA plan.

"(4) COVERAGE UNDER MSA PLANS ON A DEMONSTRATION BASIS.—

"(A) IN GENERAL.—An individual is not eligible to enroll in an MSA plan under this part—

"(i) on or after January 1, 2003, unless the enrollment is the continuation of such an enrollment in effect as of such date; or

"(ii) as of any date if the number of such individuals so enrolled as of such date has reached 500,000.

Under rules established by the Secretary, an individual is not eligible to enroll (or continue enrollment) in an MSA plan for a year unless the individual provides assurances satisfactory to the Secretary that the individual will reside in the United States for at least 183 days during the year.

"(B) EVALUATION.—The Secretary shall regularly evaluate the impact of permitting enrollment in MSA plans under this part on selection (including adverse selection), use of preventive care, access to care, and the financial status of the Trust Funds under this title.

"(C) REPORTS.—The Secretary shall submit to Congress periodic reports on the numbers of individuals enrolled in such plans and on the evaluation being conducted under subparagraph (B). The Secretary shall submit such a report, by not later than March 1, 2002, on whether the time limitation under subparagraph (A)(i) should be extended or removed and whether to change the numerical limitation under subparagraph (A)(ii).

"(c) 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 only during coverage election periods specified under subsection (e) and shall become effective as provided in subsection (f).

"(2) COORDINATION THROUGH MEDICAREPLUS ORGANIZATIONS.—

"(A) ENROLLMENT.—Such process shall permit an individual who wishes to elect a MedicarePlus plan offered by a MedicarePlus organization to make such election through the filing of an appropriate election form with the organization.

"(B) DISENROLLMENT.—Such process shall permit an individual, who has elected a MedicarePlus plan offered by a MedicarePlus organization and who wishes to terminate such election, to terminate such election through the filing of an appropriate election form with the organization.

"(3) DEFAULT.—

"(A) INITIAL ELECTION.—

"(i) IN GENERAL.—Subject to clause (ii), an individual who fails to make an election during an initial election period under subsection (e)(1) is deemed to have chosen the medicare fee-for-service program option.

"(ii) SEAMLESS CONTINUATION OF COVERAGE.—The Secretary may establish procedures under which an individual who is enrolled in a health plan (other than MedicarePlus plan) offered by a MedicarePlus organization at the time of the initial election period and who fails to elect to receive coverage other than through the organization is deemed to have elected the MedicarePlus plan offered by the organization (or, if the organization offers more than one such plan, such plan or plans as the Secretary identifies under such procedures).

"(B) CONTINUING PERIODS.—An individual who has made (or is 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) a MedicarePlus plan is discontinued, if the individual had elected such plan at the time of the discontinuation.

"(d) PROVIDING INFORMATION TO PROMOTE INFORMED CHOICE.—

"(1) IN GENERAL.—The Secretary shall provide for activities under this subsection to broadly disseminate information to medicare beneficiaries (and prospective medicare beneficiaries) on the coverage options provided under this section in order to promote an active, informed selection among such options.

"(2) PROVISION OF NOTICE.—

"(A) OPEN SEASON NOTIFICATION.—At least 30 days before the beginning of each annual, coordinated election period (as defined in subsection (e)(3)(B)), the Secretary shall mail to each MedicarePlus eligible individual residing in an area the following:

"(i) GENERAL INFORMATION.—The general information described in paragraph (3).

"(ii) LIST OF PLANS AND COMPARISON OF PLAN OPTIONS.—A list identifying the MedicarePlus plans that are (or will be) available to residents of the area and information described in paragraph (4) concerning such plans. Such information shall be presented in a comparative form.

"(iii) MEDICAREPLUS MONTHLY CAPITATION RATE.—The amount of the monthly MedicarePlus capitation rate for the area.

"(iv) ADDITIONAL INFORMATION.—Any other information that the Secretary determines will assist the individual in making the election under this section.

The mailing of such information shall be coordinated with the mailing of any annual notice under section 1804.

"(B) NOTIFICATION TO NEWLY MEDICAREPLUS ELIGIBLE INDIVIDUALS.—To the extent practicable, the Secretary shall, not later than 2 months before the beginning of the initial MedicarePlus enrollment period for an individual described in subsection (e)(1), mail to the individual the information described in subparagraph (A).

"(C) FORM.—The information disseminated under this paragraph shall be written and formatted using language that is easily understandable by medicare beneficiaries.

"(D) PERIODIC UPDATING.—The information described in subparagraph (A) shall be updated on at least an annual basis to reflect changes in the availability of MedicarePlus plans and the benefits and monthly premiums (and net monthly premiums) for such plans.

"(3) GENERAL INFORMATION.—General information under this paragraph, with respect to coverage under this part during a year, shall include the following:

"(A) BENEFITS UNDER FEE-FOR-SERVICE PROGRAM OPTION.—A general description of the benefits covered (and not covered) under the medicare fee-for-service program under parts A and B, including—

"(i) covered items and services,

"(ii) beneficiary cost sharing, such as deductibles, coinsurance, and copayment amounts, and

"(iii) any beneficiary liability for balance billing.

"(B) PART B PREMIUM.—The part B premium rates that will be charged for part B coverage.

"(C) ELECTION PROCEDURES.—Information and instructions on how to exercise election options under this section.

"(D) RIGHTS.—The general description of procedural rights (including grievance and appeals procedures) of beneficiaries under the medicare fee-for-service program and the MedicarePlus program and right to be protected against discrimination based on health status-related factors under section 1852(b).

"(E) INFORMATION ON MEDIGAP AND MEDICARE SELECT.—A general description of the benefits, enrollment rights, and other requirements applicable to medicare supplemental policies under section 1882 and provisions relating to medicare select policies described in section 1882(t).

"(F) POTENTIAL FOR CONTRACT TERMINATION.—The fact that a MedicarePlus organization may terminate or refuse to renew its contract under this part and the effect the termination or nonrenewal of its contract may have on individuals enrolled with the MedicarePlus plan under this part.

"(4) INFORMATION COMPARING PLAN OPTIONS.—Information under this paragraph, with respect to a MedicarePlus plan for a year, shall include the following:

"(A) BENEFITS.—The benefits covered (and not covered) under the plan, including—

"(i) covered items and services beyond those provided under the medicare fee-for-service program,

"(ii) any beneficiary cost sharing,

"(iii) any maximum limitations on out-of-pocket expenses,

"(iv) in the case of an MSA plan, differences in cost sharing under such a plan compared to under other MedicarePlus plans;

"(v) the use of provider networks and the restriction on payments for services furnished other than by other through the organization,

"(vi) the organization's coverage of emergency and urgently needed care,

"(vii) the appeal and grievance rights of enrollees,

"(viii) number of grievances and appeals, and information on their disposition in the aggregate,

"(ix) procedures used by the organization to control utilization of services and expenditures, and

"(x) any exclusions in the types of providers participating in the plan's network.

"(B) PREMIUMS.—The monthly premium (and net monthly premium), if any, for the plan.

"(C) SERVICE AREA.—The service area of the plan.

"(D) QUALITY AND PERFORMANCE.—To the extent available, plan quality and performance indicators for the benefits under the plan (and how they compare to such indicators under the medicare fee-for-service program under parts A and B in the area involved), including—

"(i) disenrollment rates for medicare enrollees electing to receive benefits through the plan for the previous 2 years (excluding disenrollment due to death or moving outside the plan's service area),

"(ii) information on medicare enrollee satisfaction,

"(iii) information on health outcomes, and

"(iv) the recent record regarding compliance of the plan with requirements of this part (as determined by the Secretary).

"(E) SUPPLEMENTAL BENEFITS OPTIONS.—Whether the organization offering the plan offers optional supplemental benefits and the terms and conditions (including premiums) for such coverage.

"(5) MAINTAINING A TOLL-FREE NUMBER AND INTERNET SITE.—The Secretary shall maintain a toll-free number for inquiries regarding MedicarePlus options and the operation of this part in all areas in which MedicarePlus plans are offered and an Internet site through which individuals may electronically obtain information on such options and MedicarePlus plans.

"(6) USE OF NONFEDERAL ENTITIES.—The Secretary may enter into contracts with non-Federal entities to carry out activities under this subsection.

"(7) PROVISION OF INFORMATION.—A MedicarePlus organization shall provide the Secretary with such information on the organization and each MedicarePlus plan it offers as may be required for the preparation of the information referred to in paragraph (2)(A).

"(e) COVERAGE ELECTION PERIODS.—

"(1) INITIAL CHOICE UPON ELIGIBILITY TO MAKE ELECTION IF MEDICAREPLUS PLANS AVAILABLE TO INDIVIDUAL.—If, at the time an individual first becomes entitled to benefits under part A and enrolled under part B, there is one or more MedicarePlus plans offered in the area in which the individual resides, the individual shall make the election under this section during a period (of a duration and beginning at a time specified by the Secretary) at such time. Such period shall be specified in a manner so that, in the case of an individual who elects a MedicarePlus plan during the period, coverage under the plan becomes effective as of the first date on which the individual may receive such coverage.

"(2) OPEN ENROLLMENT AND DISENROLLMENT OPPORTUNITIES.—Subject to paragraph (5)—

"(A) CONTINUOUS OPEN ENROLLMENT AND DISENROLLMENT THROUGH 2000.—At any time during 1998, 1999, and 2000, a MedicarePlus eligible individual may change the election under subsection (a)(1).

"(B) CONTINUOUS OPEN ENROLLMENT AND DISENROLLMENT FOR FIRST 6 MONTHS DURING 2001.—

"(i) IN GENERAL.—Subject to clause (ii), at any time during the first 6 months of 2001, or, if the individual first becomes a MedicarePlus eligible individual during 2001, during the first 6 months during 2001 in which the individual is a MedicarePlus eligible individual, a MedicarePlus eligible individual may change the election under subsection (a)(1).

"(ii) LIMITATION OF ONE CHANGE PER YEAR.—An individual may exercise the right under clause (i) only once during 2001. The limitation under this clause shall not apply to changes in elections effected during an annual, coordinated election period under paragraph (3) or during a special enrollment period under paragraph (4).

"(C) CONTINUOUS OPEN ENROLLMENT AND DISENROLLMENT FOR FIRST 3 MONTHS IN SUBSEQUENT YEARS.—

"(i) IN GENERAL.—Subject to clause (ii), at any time during the first 3 months of a year after 2001, or, if the individual first becomes a MedicarePlus eligible individual during a year after 2001, during the first 3 months of such year in which the individual is a MedicarePlus eligible individual, a MedicarePlus eligible individual may change the election under subsection (a)(1).

"(ii) LIMITATION OF ONE CHANGE PER YEAR.—An individual may exercise the right under clause (i) only once a year. The limitation under this clause shall not apply to changes in elections effected during an annual, coordinated election period under paragraph (3) or during a special enrollment period under paragraph (4).

"(3) ANNUAL, COORDINATED ELECTION PERIOD.—

"(A) IN GENERAL.—Subject to paragraph (5), each individual who is eligible to make an election under this section may change such election during an annual, coordinated election period.

"(B) ANNUAL, COORDINATED ELECTION PERIOD.—For purposes of this section, the term 'annual, coordinated election period' means, with respect to a calendar year (beginning with 2001), the month of October before such year.

"(C) MEDICAREPLUS HEALTH FAIRS.—In the month of October of each year (beginning with 1998), the Secretary shall provide for a nationally coordinated educational and publicity campaign to inform MedicarePlus eligible individuals about MedicarePlus plans and the election process provided under this section.

"(4) SPECIAL ELECTION PERIODS.—Effective as of January 1, 2001, an individual may discontinue an election of a MedicarePlus plan offered by a MedicarePlus organization other than during an annual, coordinated election period and make a new election under this section if—

"(A) the organization's or plan's certification under this part has been terminated or the organization has terminated or otherwise discontinued providing the plan;

"(B) the individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances (specified by the Secretary, but not including termination of the individual's enrollment on the basis described in clause (i) or (ii) of subsection (g)(3)(B));

"(C) the individual demonstrates (in accordance with guidelines established by the Secretary) that—

"(i) the organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual (including the failure to provide an enrollee on a timely

basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards); or

"(ii) the organization (or an agent or other entity acting on the organization's behalf) materially misrepresented the plan's provisions in marketing the plan to the individual; or

"(D) the individual meets such other exceptional conditions as the Secretary may provide.

"(5) SPECIAL RULES FOR MSA PLANS.—Notwithstanding the preceding provisions of this subsection, an individual—

"(A) may elect an MSA plan only during—

"(i) an initial open enrollment period described in paragraph (1),

"(ii) an annual, coordinated election period described in paragraph (3)(B), or

"(iii) the months of October 1998 and October 1999; and

"(B) may not discontinue an election of an MSA plan except during the periods described in clause (ii) or (iii) of subparagraph (A) and under paragraph (4).

"(f) EFFECTIVENESS OF ELECTIONS AND CHANGES OF ELECTIONS.—

"(1) DURING INITIAL COVERAGE ELECTION PERIOD.—An election of coverage made during the initial coverage election period under subsection (e)(1) shall take effect upon the date the individual becomes entitled to benefits under part A and enrolled under part B, except as the Secretary may provide (consistent with section 1838) in order to prevent retroactive coverage.

"(2) DURING CONTINUOUS OPEN ENROLLMENT PERIODS.—An election or change of coverage made under subsection (e)(2) shall take effect with the first day of the first calendar month following the date on which the election is made.

"(3) ANNUAL, COORDINATED ELECTION PERIOD.—An election or change of coverage made during an annual, coordinated election period (as defined in subsection (e)(3)(B)) in a year shall take effect as of the first day of the following year.

"(4) OTHER PERIODS.—An election or change of coverage made during any other period under subsection (e)(4) shall take effect in such manner as the Secretary provides in a manner consistent (to the extent practicable) with protecting continuity of health benefit coverage.

"(g) GUARANTEED ISSUE AND RENEWAL.—

"(1) IN GENERAL.—Except as provided in this subsection, a MedicarePlus organization shall provide that at any time during which elections are accepted under this section with respect to a MedicarePlus plan offered by the organization, the organization will accept without restrictions individuals who are eligible to make such election.

"(2) PRIORITY.—If the Secretary determines that a MedicarePlus organization, in relation to a MedicarePlus plan it offers, has a capacity limit and the number of MedicarePlus eligible individuals who elect the plan under this section exceeds the capacity limit, the organization may limit the election of individuals of the plan under this section but only if priority in election is provided—

"(A) first to such individuals as have elected the plan at the time of the determination, and

"(B) then to other such individuals in such a manner that does not discriminate, on a basis described in section 1852(b), among the individuals (who seek to elect the plan).

The preceding sentence shall not apply if it would result in the enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the medicare population in the service area of the plan.

"(3) LIMITATION ON TERMINATION OF ELECTION.—

"(A) IN GENERAL.—Subject to subparagraph (B), a MedicarePlus organization may not for any reason terminate the election of any individual under this section for a MedicarePlus plan it offers.

"(B) BASIS FOR TERMINATION OF ELECTION.—A MedicarePlus organization may terminate an individual's election under this section with respect to a MedicarePlus plan it offers if—

"(i) any net monthly premiums required with respect to such plan are not paid on a timely basis (consistent with standards under section 1856 that provide for a grace period for late payment of net monthly premiums),

"(ii) the individual has engaged in disruptive behavior (as specified in such standards), or

"(iii) the plan is terminated with respect to all individuals under this part in the area in which the individual resides.

"(C) CONSEQUENCE OF TERMINATION.—

"(i) TERMINATIONS FOR CAUSE.—Any individual whose election is terminated under clause (i) or (ii) of subparagraph (B) is deemed to have elected the medicare fee-for-service program option described in subsection (a)(1)(A).

"(ii) TERMINATION BASED ON PLAN TERMINATION OR SERVICE AREA REDUCTION.—Any individual whose election is terminated under subparagraph (B)(iii) shall have a special election period under subsection (e)(4)(A) in which to change coverage to coverage under another MedicarePlus plan. Such an individual who fails to make an election during such period is deemed to have chosen to change coverage to the medicare fee-for-service program option described in subsection (a)(1)(A).

"(D) ORGANIZATION OBLIGATION WITH RESPECT TO ELECTION FORMS.—Pursuant to a contract under section 1857, each MedicarePlus organization receiving an election form under subsection (c)(2) shall transmit to the Secretary (at such time and in such manner as the Secretary may specify) a copy of such form or such other information respecting the election as the Secretary may specify.

"(h) APPROVAL OF MARKETING MATERIAL AND APPLICATION FORMS.—

"(1) SUBMISSION.—No marketing material or application form may be distributed by a MedicarePlus organization to (or for the use of) MedicarePlus eligible individuals unless—

"(A) at least 45 days before the date of distribution the organization has submitted the material or form to the Secretary for review, and

"(B) the Secretary has not disapproved the distribution of such material or form.

"(2) REVIEW.—The standards established under section 1856 shall include guidelines for the review of all such material or form submitted and under such guidelines the Secretary shall disapprove (or later require the correction of) such material or form if the material or form is materially inaccurate or misleading or otherwise makes a material misrepresentation.

"(3) DEEMED APPROVAL (1-STOP SHOPPING).—In the case of material or form that is submitted under paragraph (1)(A) to the Secretary or a regional office of the Department of Health and Human Services and the Secretary or the office has not disapproved the distribution of marketing material or form under paragraph (1)(B) with respect to a MedicarePlus plan in an area, the Secretary is deemed not to have disapproved such distribution in all other areas covered by the plan and organization except to the extent that such material or form is specific only to an area involved.

"(4) PROHIBITION OF CERTAIN MARKETING PRACTICES.—Each MedicarePlus organization shall conform to fair marketing standards, in relation to MedicarePlus plans offered under this part, included in the standards established under section 1856. Such standards shall include a prohibition against a MedicarePlus organization (or agent of such an organization) completing any portion of any election form used to carry out elections under this section on behalf of any individual.

"(i) EFFECT OF ELECTION OF MEDICAREPLUS PLAN OPTION.—Subject to sections 1852(a)(5), 1857(f)(2), and 1857(g)—

"(1) payments under a contract with a MedicarePlus organization under section 1853(a) with respect to an individual electing a MedicarePlus plan offered by the organization shall be instead of the amounts which (in the absence of the contract) would otherwise be payable under parts A and B for items and services furnished to the individual, and

"(2) subject to subsections (e) and (f) of section 1853, only the MedicarePlus organization shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.

"BENEFITS AND BENEFICIARY PROTECTIONS

"SEC. 1852. (a) BASIC BENEFITS.—

"(1) IN GENERAL.—Except as provided in section 1859(b)(2) for MSA plans, each MedicarePlus plan shall 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—

"(A) those items and services for which benefits are available under parts A and B to individuals residing in the area served by the plan, and

"(B) additional benefits required under section 1854(f)(1)(A).

"(2) SATISFACTION OF REQUIREMENT.—A MedicarePlus plan (other than an MSA plan) offered by a MedicarePlus organization satisfies paragraph (1)(A), with respect to benefits for items and services furnished other than through a provider that has a contract with the organization offering the plan, if the plan provides (in addition to any cost sharing provided for under the plan) for at least the total dollar amount of payment for such items and services as would otherwise be authorized under parts A and B (including any balance billing permitted under such parts).

"(3) SUPPLEMENTAL BENEFITS.—

"(A) BENEFITS INCLUDED SUBJECT TO SECRETARY'S APPROVAL.—Each MedicarePlus organization may provide to individuals enrolled under this part (without affording those individuals an option to decline the coverage) supplemental health care benefits that the Secretary may approve. The Secretary shall approve any such supplemental benefits unless the Secretary determines that including such supplemental benefits would substantially discourage enrollment by MedicarePlus eligible individuals with the organization.

"(B) AT ENROLLEES' OPTION.—A Medi carePlus organization may provide to individuals enrolled under this part (other than

under an MSA plan) supplemental health care benefits that the individuals may elect, at their option, to have covered.

"(4) ORGANIZATION AS SECONDARY PAYER.—Notwithstanding any other provision of law, a MedicarePlus organization may (in the case of the provision of items and services to an individual under a MedicarePlus plan under circumstances in which payment under this title is made secondary pursuant to section 1862(b)(2)) charge or authorize the provider of such services to charge, in accordance with the charges allowed under such a law, plan, or policy—

"(A) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

"(B) such individual to the extent that the individual has been paid under such law, plan, or policy for such services.

"(5) NATIONAL COVERAGE DETERMINATIONS.—If there is a national coverage determination made in the period beginning on the date of an announcement under section 1853(b) and ending on the date of the next announcement under such section and the Secretary projects that the determination will result in a significant change in the costs to a MedicarePlus organization of providing the benefits that are the subject of such national coverage determination and that such change in costs was not incorporated in the determination of the annual MedicarePlus capitation rate under section 1853 included in the announcement made at the beginning of such period—

"(A) such determination shall not apply to 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 coverage under additional circumstances, section 1851(i) 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) ANTIDISCRIMINATION.—

"(1) IN GENERAL.—A MedicarePlus organization may not deny, limit, or condition the coverage or provision of benefits under this part, for individuals permitted to be enrolled with the organization under this part, based on any health status-related factor described in section 2702(a)(1) of the Public Health Service Act.

"(2) CONSTRUCTION.—Paragraph (1) shall not be construed as requiring a MedicarePlus organization to enroll individuals who are determined to have end-stage renal disease, except as provided under section 1851(a)(3)(B).

"(c) DETAILED DESCRIPTION OF PLAN PROVISIONS.—A MedicarePlus organization shall disclose, in clear, accurate, and standardized form to each enrollee with a MedicarePlus plan offered by the organization under this part at the time of enrollment and at least annually thereafter, the following information regarding such plan:

"(1) SERVICE AREA.—The plan's service area.

"(2) BENEFITS.—Benefits offered (and not offered) under the plan offered, including information described in section 1851(d)(3)(A) and exclusions from coverage and, if it is an MSA plan, a comparison of benefits under such a plan with benefits under other MedicarePlus plans.

"(3) ACCESS.—The number, mix, and distribution of plan providers and any point-of-service option (including the supplemental premium for such option).

"(4) OUT-OF-AREA COVERAGE.—Out-of-area coverage provided by the plan.

"(5) EMERGENCY COVERAGE.—Coverage of emergency services and urgently needed care, including—

"(A) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

"(B) the process and procedures of the plan for obtaining emergency services; and

"(C) the locations of (i) emergency departments, and (ii) other settings, in which plan physicians and hospitals provide emergency services and post-stabilization care..

"(6) SUPPLEMENTAL BENEFITS.—Supplemental benefits available from the organization offering the plan, including—

"(A) whether the supplemental benefits are optional,

"(B) the supplemental benefits covered, and

"(C) the premium price for the supplemental benefits.

"(7) PRIOR AUTHORIZATION RULES.—Rules regarding prior authorization or other review requirements that could result in nonpayment.

"(8) PLAN GRIEVANCE AND APPEALS PROCEDURES.—Any appeal or grievance rights and procedures.

"(9) QUALITY ASSURANCE PROGRAM.—A description of the organization's quality assurance program under subsection (e).

"(d) ACCESS TO SERVICES.—

"(1) IN GENERAL.—A MedicarePlus organization offering a MedicarePlus plan may select the providers from whom the benefits under the plan are provided so long as—

"(A) the organization makes such benefits available and accessible to each individual electing the plan within the plan service area with reasonable promptness and in a manner which assures continuity in the provision of benefits;

"(B) when medically necessary in the opinion of the treating health care provider the organization makes such benefits available and accessible 24 hours a day and 7 days a week;

"(C) the plan provides for reimbursement with respect to services which are covered under subparagraphs (A) and (B) and which are provided to such an individual other than through the organization, if—

"(i) the services were medically necessary in the opinion of the treating health care provider and immediately required because of an unforeseen illness, injury, or condition, and it was not reasonable given the circumstances to obtain the services through the organization,

"(ii) the services were renal dialysis services and were provided other than through the organization because the individual was temporarily out of the plan's service area, or

"(iii) the services are maintenance care or post-stabilization care covered under the guidelines established under paragraph (2);

"(D) the organization provides access to appropriate providers, including credentialed specialists, for treatment and services when such treatment and services are determined to be medically necessary in the professional opinion of the treating health care provider, in consultation with the individual; and

"(E) coverage is provided for emergency services (as defined in paragraph (3)) without regard to prior authorization or the emergency care provider's contractual relationship with the organization.

"(2) GUIDELINES RESPECTING COORDINATION OF POST-STABILIZATION CARE.—A MedicarePlus plan shall comply with such guidelines as the Secretary may prescribe relating to promoting efficient and timely coordination of appropriate maintenance and post-stabilization care of an enrollee after the enrollee has been determined to be stable under section 1867.

"(3) DEFINITION OF EMERGENCY SERVICES.—In this subsection—

"(A) IN GENERAL.—The term 'emergency services' means, with respect to an individual enrolled with an organization, covered inpatient and outpatient services that—

"(i) are furnished by a provider that is qualified to furnish such services under this title, and

"(ii) are needed to evaluate or stabilize an emergency medical condition (as defined in subparagraph (B)).

"(B) EMERGENCY MEDICAL CONDITION BASED ON PRUDENT LAYPERSON.—The term 'emergency medical condition' means a medical condition manifesting itself by acute symptoms of sufficient severity such 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—

"(i) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

"(ii) serious impairment to bodily functions, or

"(iii) serious dysfunction of any bodily organ or part.

"(4) DETERMINATION OF HOSPITAL LENGTH OF STAY.—

"(A) IN GENERAL.—A MedicarePlus organization shall cover the length of an inpatient hospital stay under this part as determined by the attending physician (or other attending health care provider to the extent permitted under State law) in consultation with the patient to be medically appropriate.

"(B) CONSTRUCTION.—Nothing in this paragraph shall be construed—

"(i) as requiring the provision of inpatient coverage if the attending physician (or other attending health care provider to the extent permitted under State law) and patient determine that a shorter period of hospital stay is medically appropriate, or

"(ii) as affecting the application of deductibles and coinsurance.

"(e) QUALITY ASSURANCE PROGRAM.—

"(1) IN GENERAL.—Each MedicarePlus organization must have arrangements, consistent with any regulation, for an ongoing quality assurance program for health care services it provides to individuals enrolled with MedicarePlus plans of the organization.

"(2) ELEMENTS OF PROGRAM.—The quality assurance program shall—

"(A) stress health outcomes and provide for the collection, analysis, and reporting of data (in accordance with a quality measurement system that the Secretary recognizes) that will permit measurement of outcomes and other indices of the quality of MedicarePlus plans and organizations;

"(B) provide for the establishment of written protocols for utilization review, based on current standards of medical practice;

"(C) provide review by physicians and other health care professionals of the process followed in the provision of such health care services;

"(D) monitor and evaluate high volume and high risk services and the care of acute and chronic conditions;

"(E) evaluate the continuity and coordination of care that enrollees receive;

"(F) have mechanisms to detect both underutilization and overutilization of services;

"(G) after identifying areas for improvement, establish or alter practice parameters;

"(H) take action to improve quality and assesses the effectiveness of such action through systematic followup;

"(I) make available information on quality and outcomes measures to facilitate beneficiary comparison and choice of health coverage options (in such form and on such quality and outcomes measures as the Secretary determines to be appropriate);

"(J) be evaluated on an ongoing basis as to its effectiveness;

"(K) include measures of consumer satisfaction; and

"(L) provide the Secretary with such access to information collected as may be appropriate to monitor and ensure the quality of care provided under this part.

"(3) EXTERNAL REVIEW.—Each Medi carePlus organization shall, for each MedicarePlus plan it operates, have an agreement with an independent quality review and improvement organization approved by the Secretary to perform functions of the type described in sections 1154(a)(4)(B) and 1154(a)(14) with respect to services furnished by MedicarePlus plans for which payment is made under this title.

"(4) TREATMENT OF ACCREDITATION.—The Secretary shall provide that a MedicarePlus organization is deemed to meet requirements of paragraphs (1) through (3) of this subsection and subsection (h) (relating to confidentiality and accuracy of enrollee records) if the organization is accredited (and periodically reaccredited) by a private organization under a process that the Secretary has determined assures that the organization, as a condition of accreditation, applies and enforces standards with respect to the requirements involved that are no less stringent than the standards established under section 1856 to carry out the respective requirements.

"(f) COVERAGE DETERMINATIONS.—

"(1) DECISIONS ON NONEMERGENCY CARE.—A MedicarePlus organization shall make determinations regarding authorization requests for nonemergency care on a timely basis, depending on the urgency of the situation. The organization shall provide notice of any coverage denial, which notice shall include a statement of the reasons for the denial and a description of the grievance and appeals processes available.

"(2) RECONSIDERATIONS.—

"(A) IN GENERAL.—Subject to subsection (g)(4), a reconsideration of a determination of an organization denying coverage shall be made within 30 days of the date of receipt of medical information, but not later than 60 days after the date of the determination.

"(B) PHYSICIAN DECISION ON CERTAIN RECONSIDERATIONS.—A reconsideration relating to a determination to deny coverage based on a lack of medical necessity shall be made only by a physician with appropriate expertise in the field of medicine which necessitates treatment who is other than a physician involved in the initial determination.

"(g) GRIEVANCES AND APPEALS.—

"(1) GRIEVANCE MECHANISM.—Each MedicarePlus 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 enrollees with MedicarePlus plans of the organization under this part.

"(2) APPEALS.—An enrollee with a MedicarePlus plan of a MedicarePlus organization under this part who is dissatisfied by reason of the enrollee's failure to receive any health service to which the enrollee believes the enrollee is entitled and at no greater charge than the enrollee believes the enrollee 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 organization a party. If the amount in controversy is $1,000 or more, the individual or 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 organization shall be entitled to be parties to that judicial review. In applying sections 205(b) and 205(g) as provided in this paragraph, 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.

"(3) INDEPENDENT REVIEW OF COVERAGE DENIALS.—The Secretary shall contract with an independent, outside entity to review and resolve in a timely manner reconsiderations that affirm denial of coverage.

"(4) EXPEDITED DETERMINATIONS AND RECONSIDERATIONS.—

"(A) RECEIPT OF REQUESTS.—An enrollee in a MedicarePlus plan may request, either in writing or orally, an expedited determination or reconsideration by the MedicarePlus organization regarding a matter described in paragraph (2). The organization shall also permit the acceptance of such requests by physicians.

"(B) ORGANIZATION PROCEDURES.—

"(i) IN GENERAL.—The MedicarePlus organization shall maintain procedures for expediting organization determinations and reconsiderations when, upon request of an enrollee, the organization determines that the application of normal time frames for making a determination (or a reconsideration involving a determination) could seriously jeopardize the life or health of the enrollee or the enrollee's ability to regain maximum function.

"(ii) TIMELY RESPONSE.—In an urgent case described in clause (i), the organization shall notify the enrollee (and the physician involved, as appropriate) of the determination (or determination on the reconsideration) as expeditiously as the enrollee's health condition requires, but not later than 72 hours (or 24 hours in the case of a reconsideration) of the time of receipt of the request for the determination or reconsideration (or receipt of the information necessary to make the determination or reconsideration), or such longer period as the Secretary may permit in specified cases.

"(iii) SECRETARIAL REPORT.—The Secretary shall annually report publicly on the number and disposition of denials and appeals within each MedicarePlus organization, and those reviewed and resolved by the independent entities under this subsection.

"(h) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—Each MedicarePlus organization shall establish procedures—

"(1) to safeguard the privacy of individually identifiable enrollee information,

"(2) to maintain accurate and timely medical records and other health information for enrollees, and

"(3) to assure timely access of enrollees to their medical information.

"(i) INFORMATION ON ADVANCE DIRECTIVES.—Each MedicarePlus organization shall meet the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).

"(j) RULES REGARDING PHYSICIAN PARTICIPATION.—

"(1) PROCEDURES.—Each MedicarePlus organization shall establish reasonable procedures relating to the participation (under an agreement between a physician and the organization) of physicians under MedicarePlus plans offered by the organization under this part. Such procedures shall include—

"(A) providing notice of the rules regarding participation,

"(B) providing written notice of participation decisions that are adverse to physicians, and

"(C) providing a process within the organization for appealing such adverse decisions, including the presentation of information and views of the physician regarding such decision.

"(2) CONSULTATION IN MEDICAL POLICIES.—A MedicarePlus organization shall consult with physicians who have entered into participation agreements with the organization regarding the organization's medical policy, quality, and medical management procedures.

"(3) PROHIBITING INTERFERENCE WITH PROVIDER ADVICE TO ENROLLEES.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), a MedicarePlus organization (in relation to an individual enrolled under a MedicarePlus plan offered by the organization under this part) shall not prohibit or otherwise restrict a covered health care professional (as defined in subparagraph (D)) from advising such an individual who is a patient of the professional about the health status of the individual or medical care or treatment for the individual's condition or disease, regardless of whether benefits for such care or treatment are provided under the plan, if the professional is acting within the lawful scope of practice.

"(B) CONSCIENCE PROTECTION.—Subparagraph (A) shall not be construed as requiring a MedicarePlus plan to provide, reimburse for, or provide coverage of a counseling or referral service if the MedicarePlus organization offering the plan—

"(i) objects to the provision of such service on moral or religious grounds; and

"(ii) in the manner and through the written instrumentalities such MedicarePlus organization deems appropriate, makes available information on its policies regarding such service to prospective enrollees before or during enrollment and to enrollees within 90 days after the date that the organization or plan adopts a change in policy regarding such a counseling or referral service.

"(C) CONSTRUCTION.—Nothing in subparagraph (B) shall be construed to affect disclosure requirements under State law or under the Employee Retirement Income Security Act of 1974.

"(D) HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this paragraph, the term 'health care professional' means a physician (as defined in section 1861(r)) or other health care professional if coverage for the professional's services is provided under the MedicarePlus plan for the services of the professional. Such term includes a podiatrist, optometrist, chiropractor, psychologist, dentist, physician assistant, physical or occupational therapist and therapy assistant, speech-language pathologist, audiologist, registered or licensed practical nurse (including nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, and certified nurse-midwife), licensed certified social worker, registered

respiratory therapist, and certified respiratory therapy technician.

"(4) LIMITATIONS ON HEALTH CARE PROVIDER INCENTIVE PLANS.—

"(A) IN GENERAL.—No MedicarePlus organization may operate any health care provider 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 health care provider or health care provider 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 health care provider or health care provider group at substantial financial risk (as determined by the Secretary) for services not provided by the health care provider or health care provider group, the organization—

"(I) provides stop-loss protection for the health care provider or group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number of health care providers 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 health care provider or 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) HEALTH CARE PROVIDER INCENTIVE PLAN DEFINED.—In this paragraph, the term 'health care provider incentive plan' means any compensation arrangement between a MedicarePlus organization and a health care provider or health care provider group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the organization under this part.

"(C) HEALTH CARE PROVIDER DEFINED.—For the purposes of this paragraph, the term 'health care provider' has the meaning given the term 'health care professional' in paragraph (3)(D).

"(5) LIMITATION ON PROVIDER INDEMNIFICATION.—A MedicarePlus organization may not provide (directly or indirectly) for a provider (or group of providers) to indemnify the organization against any liability resulting from a civil action brought for any damage caused to an enrollee with a MedicarePlus plan of the organization under this part by the organization's denial of medically necessary care.

"(6) LIMITATION ON NON-COMPETE CLAUSE.—A MedicarePlus organization may not (directly or indirectly) seek to enforce any contractual provision which prevents a provider whose contractual obligations to the organization for the provision of services through the organization have ended from joining or forming any competing MedicarePlus organization that is a provider-sponsored organization in the same area.

"(k) TREATMENT OF SERVICES FURNISHED BY CERTAIN PROVIDERS.—A physician or other entity (other than a provider of services) that does not have a contract establishing payment amounts for services furnished to an individual enrolled under this part with a MedicarePlus organization shall accept as payment in full for covered services under this title that are furnished to such an individual the amounts that the physician or other entity could collect if the individual were not so enrolled. Any penalty or other provision of law that applies to such a payment with respect to an individual entitled to benefits under this title (but not enrolled with a MedicarePlus organization under this part) also applies with respect to an individual so enrolled.

"(l) DISCLOSURE OF USE OF DSH AND TEACHING HOSPITALS.—Each MedicarePlus organization shall provide the Secretary with information on—

"(1) the extent to which the organization provides inpatient and outpatient hospital benefits under this part—

"(A) through the use of hospitals that are eligible for additional payments under section 1886(d)(5)(F)(i) (relating to so-called DSH hospitals), or

"(B) through the use of teaching hospitals that receive payments under section 1886(h); and

"(2) the extent to which differences between payment rates to different hospitals reflect the disproportionate share percentage of low-income patients and the presence of medical residency training programs in those hospitals.

"(m) OUT-OF-NETWORK ACCESS.—If an organization offers to members enrolled under this section one plan which provides for coverage of services covered under parts A and B primarily through providers and other persons who are members of a network of providers and other persons who have entered into a contract with the organization to provide such services, nothing in this section shall be construed as preventing the organization from offering such members (at the time of enrollment) another plan which provides for coverage of such items which are not furnished through such network providers.

"(n) NON-PREEMPTION OF STATE LAW.—A State may establish or enforce requirements with respect to beneficiary protections in this section, but only if such requirements are more stringent than the requirements established under this section.

"(o) NONDISCRIMINATION IN SELECTION OF NETWORK HEALTH PROFESSIONALS.—

"(1) IN GENERAL.—A MedicarePlus organization offering a MedicarePlus plan offering network coverage shall not discriminate in selecting the members of its health professional network (or in establishing the terms and conditions for membership in such network) on the basis of the race, national origin, gender, age, or disability (other than a disability that impairs the ability of an individual to provide health care services or that may threaten the health of enrollees) of the health professional.

"(2) APPROPRIATE RANGE OF SERVICES.—A MedicarePlus organization shall not deny any health care professionals, based solely on the license or certification as applicable under State law, the ability to participate in providing covered health care services, or be reimbursed or indemnified by a network plan for providing such services under this part.

"(2) DEFINITIONS.—For purposes of this subsection:

"(A) NETWORK.—The term 'network' means, with respect to a MedicarePlus organization offering a MedicarePlus plan, the participating health professionals and providers through whom the organization provides health care items and services to enrollees.

"(B) NETWORK COVERAGE.—The term 'network coverage' means a MedicarePlus plan offered by a MedicarePlus organization that provides or arranges for the provision of health care items and services to enrollees through participating health professionals and providers.

"(C) PARTICIPATING.—The term 'participating' means, with respect to a health professional or provider, a health professional or provider that provides health care items and services to enrollees under network coverage under an agreement with the MedicarePlus organization offering the coverage.

"(p) SPECIAL RULE FOR UNRESTRICTED FEE-FOR-SERVICE MSA PLANS.—Subsections (j)(1) and (k) shall not apply to a MedicarePlus organization with respect to an MSA plan it offers if the plan does not limit the providers through whom benefits may be obtained under the plan.

"PAYMENTS TO MEDICAREPLUS ORGANIZATIONS

"SEC. 1853. (a) PAYMENTS TO ORGANIZATIONS.—

"(1) MONTHLY PAYMENTS.—

"(A) IN GENERAL.—Under a contract under section 1857 and subject to subsections (e) and (f), the Secretary shall make monthly payments under this section in advance to each MedicarePlus organization, with respect to coverage of an individual under this part in a MedicarePlus payment area for a month, in an amount equal to 1/12 of the annual MedicarePlus capitation rate (as calculated under subsection (c)) with respect to that individual for that area, adjusted for such risk factors as age, disability status, gender, institutional 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 factors, if such changes will improve the determination of actuarial equivalence.

"(B) SPECIAL RULE FOR END-STAGE RENAL DISEASE.—The Secretary shall establish separate rates of payment to a MedicarePlus organization with respect to classes of individuals determined to have end-stage renal disease and enrolled in a MedicarePlus plan of the organization. Such rates of payment shall be actuarially equivalent to rates paid to other enrollees in the MedicarePlus payment area (or such other area as specified by the Secretary). In accordance with regulations, the Secretary shall provide for the application of the seventh sentence of section 1881(b)(7) to payments under this section covering the provision of renal dialysis treatment in the same manner as such sentence applies to composite rate payments described in such sentence.

"(2) ADJUSTMENT TO REFLECT NUMBER OF ENROLLEES.—

"(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 with an organization 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 a MedicarePlus organization under a 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 organization under this part, except that for purposes of making such retroactive adjustments under this subparagraph, such period may not exceed 90 days.

"(ii) EXCEPTION.—No adjustment may be made under clause (i) with respect to any individual who does not certify that the organization provided the individual with the information required to be disclosed under section 1852(c) at the time the individual enrolled with the organization.

"(3) ESTABLISHMENT OF RISK ADJUSTMENT FACTORS.—

"(A) REPORT.—The Secretary shall develop, and submit to Congress by not later than October 1, 1999, a report on a method of risk adjustment of payment rates under this section that accounts for variations in per capita costs based on health status. Such report shall include an evaluation of such method by an outside, independent actuary of the actuarial soundness of the proposal.

"(B) DATA COLLECTION.—In order to carry out this paragraph, the Secretary shall require MedicarePlus organizations (and eligible organizations with risk-sharing contracts under section 1876) to submit, for periods beginning on or after January 1, 1998, data regarding inpatient hospital services and other services and other information the Secretary deems necessary.

"(C) INITIAL IMPLEMENTATION.—The Secretary shall first provide for implementation of a risk adjustment methodology that accounts for variations in per capita costs based on health status and other demographic factors for payments by no later than January 1, 2000.

"(b) ANNUAL ANNOUNCEMENT OF PAYMENT RATES.—

"(1) ANNUAL ANNOUNCEMENT.—The Secretary shall annually determine, and shall announce (in a manner intended to provide notice to interested parties) not later than August 1 before the calendar year concerned—

"(A) the annual MedicarePlus capitation rate for each MedicarePlus payment area for the year, and

"(B) the risk and other factors to be used in adjusting such rates under subsection (a)(1)(A) for payments for months in that year.

"(2) ADVANCE NOTICE OF METHODOLOGICAL CHANGES.—At least 45 days before making the announcement under paragraph (1) for a year, the Secretary shall provide for notice to MedicarePlus organizations of proposed changes to be made in the methodology from the methodology and assumptions used in the previous announcement and shall provide such organizations an opportunity to comment on such proposed changes.

"(3) EXPLANATION OF ASSUMPTIONS.—In each announcement made under paragraph (1), the Secretary shall include an explanation of the assumptions and changes in methodology used in the announcement in sufficient detail so that MedicarePlus organizations can compute monthly adjusted MedicarePlus capitation rates for individuals in each MedicarePlus payment area which is in whole or in part within the service area of such an organization.

"(c) CALCULATION OF ANNUAL MEDICAREPLUS CAPITATION RATES.—

"(1) IN GENERAL.—For purposes of this part, each annual MedicarePlus capitation rate, for a MedicarePlus payment area for a contract year consisting of a calendar year, is equal to the largest of the amounts specified in the following subparagraphs (A), (B), or (C):

"(A) BLENDED CAPITATION RATE.—The sum of—

"(i) area-specific percentage for the year (as specified under paragraph (2) for the year) of the annual area-specific MedicarePlus capitation rate for the year for the MedicarePlus payment area, as determined under paragraph (3), and

"(ii) national percentage (as specified under paragraph (2) for the year) of the input-price-adjusted annual national MedicarePlus capitation rate for the year, as determined under paragraph (4),

multiplied by the payment adjustment factors described in subparagraphs (A) and (B) of paragraph (5).

"(B) MINIMUM AMOUNT.—12 multiplied by the following amount:

"(i) For 1998, $350 (but not to exceed, in the case of an area outside the 50 States and the District of Columbia, 150 percent of the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) for the area).

"(ii) For a succeeding year, the minimum amount specified in this clause (or clause (i)) for the preceding year increased by the national per capita MedicarePlus growth percentage, specified under paragraph (6) for that succeeding year.

"(C) MINIMUM PERCENTAGE INCREASE.—

"(i) For 1998, the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) for the MedicarePlus payment area.

"(ii) For 1999 and 2000, 101 percent of the annual MedicarePlus capitation rate under this paragraph for the area for the previous year.

"(iii) For a subsequent year, 102 percent of the annual MedicarePlus capitation rate under this paragraph for the area for the previous year.

"(2) AREA-SPECIFIC AND NATIONAL PERCENTAGES.—For purposes of paragraph (1)(A)—

"(A) for 1998, the 'area-specific percentage' is 90 percent and the 'national percentage' is 10 percent,

"(B) for 1999, the 'area-specific percentage' is 85 percent and the 'national percentage' is 15 percent,

"(C) for 2000, the 'area-specific percentage' is 80 percent and the 'national percentage' is 20 percent,

"(D) for 2001, the 'area-specific percentage' is 75 percent and the 'national percentage' is 25 percent, and

"(E) for a year after 2001, the 'area-specific percentage' is 70 percent and the 'national percentage' is 30 percent.

"(3) ANNUAL AREA-SPECIFIC MEDICAREPLUS CAPITATION RATE.—

"(A) IN GENERAL.—For purposes of paragraph (1)(A), subject to subparagraph (B), the annual area-specific MedicarePlus capitation rate for a MedicarePlus payment area—

"(i) for 1998 is the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) for the area, increased by the national per capita MedicarePlus growth percentage for 1998 (as defined in paragraph (6)); or

"(ii) for a subsequent year is the annual area-specific MedicarePlus capitation rate for the previous year determined under this paragraph for the area, increased by the national per capita MedicarePlus growth percentage for such subsequent year.

"(B) REMOVAL OF MEDICAL EDUCATION AND DISPROPORTIONATE SHARE HOSPITAL PAYMENTS FROM CALCULATION OF ADJUSTED AVERAGE PER CAPITA COST.—

"(i) IN GENERAL.—In determining the area-specific MedicarePlus capitation rate under subparagraph (A), for a year (beginning with 1998), the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) shall be adjusted to exclude from the rate the applicable percent (specified in clause (ii)) of the payment adjustments described in subparagraph (C).

"(ii) APPLICABLE PERCENT.—For purposes of clause (i), the applicable percent for—

"(I) 1998 is 20 percent,

"(II) 1999 is 40 percent,

"(III) 2000 is 60 percent,

"(IV) 2001 is 80 percent, and

"(V) a succeeding year is 100 percent.

"(C) PAYMENT ADJUSTMENT.—The payment adjustments described in this subparagraph are payment adjustments which the Secretary estimates were payable during 1997—

"(i) under section 1886(d)(5)(F) for hospitals serving a disproportionate share of low-income patients,

"(ii) for the indirect costs of medical education under section 1886(d)(5)(B), and

"(iii) for direct graduate medical education costs under section 1886(h),

multiplied by a ratio (estimated by the Secretary) of total payments under subsection (h) and section 1858 in 1998 to payments under such subsection and payments under such section in such year for hospitals not reimbursed under section 1814(b)(3).

"(4) INPUT-PRICE-ADJUSTED ANNUAL NATIONAL MEDICAREPLUS CAPITATION RATE.—

"(A) IN GENERAL.—For purposes of paragraph (1)(A), the input-price-adjusted annual national MedicarePlus capitation rate for a MedicarePlus payment area for a year is equal to the sum, for all the types of medicare services (as classified by the Secretary), of the product (for each such type of service) of—

"(i) the national standardized annual MedicarePlus capitation rate (determined under subparagraph (B)) for the year,

"(ii) the proportion of such rate for the year which is attributable to such type of services, and

"(iii) an index that reflects (for that year and that type of services) the relative input price of such services in the area compared to the national average input price of such services.

In applying clause (iii), the Secretary shall, subject to subparagraph (C), apply those indices under this title that are used in applying (or updating) national payment rates for specific areas and localities.

"(B) NATIONAL STANDARDIZED ANNUAL MEDICAREPLUS CAPITATION RATE.—In subparagraph (A)(i), the 'national standardized annual MedicarePlus capitation rate' for a year is equal to—

"(i) the sum (for all MedicarePlus payment areas) of the product of—

"(I) the annual area-specific MedicarePlus capitation rate for that year for the area under paragraph (3), and

"(II) the average number of medicare beneficiaries residing in that area in the year, multiplied by the average of the risk factor weights used to adjust payments under subsection (a)(1)(A) for such beneficiaries in such area; divided by

"(ii) the sum of the products described in clause (i)(II) for all areas for that year.

"(C) SPECIAL RULES FOR 1998.—In applying this paragraph for 1998—

"(i) medicare services shall be divided into 2 types of services: part A services and part B services;

"(ii) the proportions described in subparagraph (A)(ii)—

"(I) for part A services shall be the ratio (expressed as a percentage) of the national average annual per capita rate of payment for part A for 1997 to the total national average annual per capita rate of payment for parts A and B for 1997, and

"(II) for part B services shall be 100 percent minus the ratio described in subclause (I);

"(iii) for part A services, 70 percent of payments attributable to such services shall be adjusted by the index used under section 1886(d)(3)(E) to adjust payment rates for relative hospital wage levels for hospitals located in the payment area involved;

"(iv) for part B services—

"(I) 66 percent of payments attributable to such services shall be adjusted by the index of the geographic area factors under section 1848(e) used to adjust payment rates for physicians' services furnished in the payment area, and

"(II) of the remaining 34 percent of the amount of such payments, 40 percent shall be adjusted by the index described in clause (iii); and

"(v) the index values shall be computed based only on the beneficiary population who are 65 years of age or older and who are not determined to have end stage renal disease.

The Secretary may continue to apply the rules described in this subparagraph (or similar rules) for 1999.

"(5) PAYMENT ADJUSTMENT BUDGET NEUTRALITY FACTORS.—For purposes of paragraph (1)(A)—

"(A) BLENDED RATE PAYMENT ADJUSTMENT FACTOR.—For each year, the Secretary shall compute a blended rate payment adjustment factor such that, not taking into account subparagraphs (B) and (C) of paragraph (1) and the application of the payment adjustment factor described in subparagraph (B) but taking into account paragraph (7), the aggregate of the payments that would be made under this part is equal to the aggregate payments that would have been made under this part (not taking into account such subparagraphs and such other adjustment factor) if the area-specific percentage under paragraph (1) for the year had been 100 percent and the national percentage had been 0 percent.

"(B) FLOOR-AND-MINIMUM-UPDATE PAYMENT ADJUSTMENT FACTOR.—For each year, the Secretary shall compute a floor-and-minimum-update payment adjustment factor so that, taking into account the application of the blended rate payment adjustment factor under subparagraph (A) and subparagraphs (B) and (C) of paragraph (1) and the application of the adjustment factor under this subparagraph, the aggregate of the payments under this part shall not exceed the aggregate payments that would have been made under this part if subparagraphs (B) and (C) of paragraph (1) did not apply and if the floor-and-minimum-update payment adjustment factor under this subparagraph was 1.

"(6) NATIONAL PER CAPITA MEDICAREPLUS GROWTH PERCENTAGE DEFINED.—

"(A) IN GENERAL.—In this part, the 'national per capita MedicarePlus growth percentage' for a year is the percentage determined by the Secretary, by April 30th before the beginning of the year involved, to reflect the Secretary's estimate of the projected per capita rate of growth in expenditures under this title for an individual entitled to benefits under part A and enrolled under part B, reduced by the number of percentage points specified in subparagraph (B) for the year. Separate determinations may be made for aged enrollees, disabled enrollees, and enrollees with end-stage renal disease. Such percentage shall include an adjustment for over or under projection in the growth percentage for previous years.

"(B) ADJUSTMENT.—The number of percentage points specified in this subparagraph is—

"(i) for 1998, 0.5 percentage points,

"(ii) for 1999, 0.5 percentage points,

"(iii) for 2000, 0.5 percentage points,

"(iv) for 2001, 0.5 percentage points,

"(v) for 2002, 0.5 percentage points, and

"(vi) for a year after 2002, 0 percentage points.

"(7) TREATMENT OF AREAS WITH HIGHLY VARIABLE PAYMENT RATES.—In the case of a MedicarePlus payment area for which the annual per capita rate of payment determined under section 1876(a)(1)(C) for 1997 varies by more than 20 percent from such rate for 1996, for purposes of this subsection the Secretary may substitute for such rate for 1997 a rate that is more representative of the costs of the enrollees in the area.

"(d) MEDICAREPLUS PAYMENT AREA DEFINED.—

"(1) IN GENERAL.—In this part, except as provided in paragraph (3), the term 'MedicarePlus payment area' means a county, or equivalent area specified by the Secretary.

"(2) RULE FOR ESRD BENEFICIARIES.—In the case of individuals who are determined to have end stage renal disease, the MedicarePlus payment area shall be a State or such other payment area as the Secretary specifies.

"(3) GEOGRAPHIC ADJUSTMENT.—

"(A) IN GENERAL.—Upon written request of the chief executive officer of a State for a contract year (beginning after 1998) made at least 7 months before the beginning of the year, the Secretary shall make a geographic adjustment to a MedicarePlus payment area in the State otherwise determined under paragraph (1)—

"(i) to a single statewide MedicarePlus payment area,

"(ii) to the metropolitan based system described in subparagraph (C), or

"(iii) to consolidating into a single MedicarePlus payment area noncontiguous counties (or equivalent areas described in paragraph (1)) within a State.

Such adjustment shall be effective for payments for months beginning with January of the year following the year in which the request is received.

"(B) BUDGET NEUTRALITY ADJUSTMENT.—In the case of a State requesting an adjustment under this paragraph, the Secretary shall adjust the payment rates otherwise established under this section for MedicarePlus payment areas in the State in a manner so that the aggregate of the payments under this section in the State shall not exceed the aggregate payments that would have been made under this section for MedicarePlus payment areas in the State in the absence of the adjustment under this paragraph.

"(C) METROPOLITAN BASED SYSTEM.—The metropolitan based system described in this subparagraph is one in which—

"(i) all the portions of each metropolitan statistical area in the State or in the case of a consolidated metropolitan statistical area, all of the portions of each primary metropolitan statistical area within the consolidated area within the State, are treated as a single MedicarePlus payment area, and

"(ii) all areas in the State that do not fall within a metropolitan statistical area are treated as a single MedicarePlus payment area.

"(D) AREAS.—In subparagraph (C), the terms 'metropolitan statistical area', 'consolidated metropolitan statistical area', and 'primary metropolitan statistical area' mean any area designated as such by the Secretary of Commerce.

"(e) SPECIAL RULES FOR INDIVIDUALS ELECTING MSA PLANS.—

"(1) IN GENERAL.—If the amount of the monthly premium for an MSA plan for a MedicarePlus payment area for a year is less than 1/12 of the annual MedicarePlus capitation rate applied under this section for the area and year involved, the Secretary shall deposit an amount equal to 100 percent of such difference in a MedicarePlus MSA established (and, if applicable, designated) by the individual under paragraph (2).

"(2) ESTABLISHMENT AND DESIGNATION OF MEDICAREPLUS MEDICAL SAVINGS ACCOUNT AS REQUIREMENT FOR PAYMENT OF CONTRIBUTION.—In the case of an individual who has elected coverage under an MSA plan, no payment shall be made under paragraph (1) on behalf of an individual for a month unless the individual—

"(A) has established before the beginning of the month (or by such other deadline as the Secretary may specify) a MedicarePlus MSA (as defined in section 138(b)(2) of the Internal Revenue Code of 1986), and

"(B) if the individual has established more than one such MedicarePlus MSA, has designated one of such accounts as the individual's MedicarePlus MSA for purposes of this part.

Under rules under this section, such an individual may change the designation of such account under subparagraph (B) for purposes of this part.

"(3) LUMP SUM DEPOSIT OF MEDICAL SAVINGS ACCOUNT CONTRIBUTION.—In the case of an individual electing an MSA plan effective beginning with a month in a year, the amount of the contribution to the MedicarePlus MSA on behalf of the individual for that month and all successive months in the year shall be deposited during that first month. In the case of a termination of such an election as of a month before the end of a year, the Secretary shall provide for a procedure for the recovery of deposits attributable to the remaining months in the year.

"(f) PAYMENTS FROM TRUST FUND.—The payment to a MedicarePlus organization under this section for individuals enrolled under this part with the organization and payments to a MedicarePlus MSA under subsection (e)(1) shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines reflects the relative weight that benefits under part A and under part B represents of the actuarial value of the total benefits under this title. Monthly payments otherwise payable under this section for October 2001 shall be paid on the last business day of September 2001.

"(g) SPECIAL RULE FOR CERTAIN INPATIENT HOSPITAL STAYS.—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—

"(1) election under this part of a MedicarePlus plan offered by a MedicarePlus organization—

"(A) payment for such services until the date of the individual's discharge shall be made under this title through the MedicarePlus plan or the medicare fee-for-service program option described in section 1851(a)(1)(A) (as the case may be) elected before the election with such organization,

"(B) the elected organization shall not be financially responsible for payment for such services until the date after the date of the individual's discharge, and

"(C) the organization shall nonetheless be paid the full amount otherwise payable to the organization under this part; or

"(2) termination of election with respect to a MedicarePlus organization under this part—

"(A) the organization shall be financially responsible for payment for such services after such date and until the date of the individual's discharge,

"(B) payment for such services during the stay shall not be made under section 1886(d) or by any succeeding MedicarePlus organization, and

"(C) the terminated organization shall not receive any payment with respect to the individual under this part during the period the individual is not enrolled.

"PREMIUMS

"SEC. 1854. (a) SUBMISSION AND CHARGING OF PREMIUMS.—

"(1) IN GENERAL.—Subject to paragraph (3), each MedicarePlus organization shall file with the Secretary each year, in a form and manner and at a time specified by the Secretary—

"(A) the amount of the monthly premium for coverage for services under section 1852(a) under each MedicarePlus plan it offers under this part in each MedicarePlus payment area (as defined in section 1853(d)) in which the plan is being offered; and

"(B) the enrollment capacity in relation to the plan in each such area.

"(2) TERMINOLOGY.—In this part—

"(A) the term 'monthly premium' means, with respect to a MedicarePlus plan offered by a MedicarePlus organization, the monthly premium filed under paragraph (1), not taking into account the amount of any payment made toward the premium under section 1853; and

"(B) the term 'net monthly premium' means, with respect to such a plan and an individual enrolled with the plan, the premium (as defined in subparagraph (A)) for the plan reduced by the amount of payment made toward such premium under section 1853.

"(b) MONTHLY PREMIUM CHARGED.—The monthly amount of the premium charged by a MedicarePlus organization for a Medi carePlus plan offered in a MedicarePlus payment area to an individual under this part shall be equal to the net monthly premium plus any monthly premium charged in accordance with subsection (e)(2) for supplemental benefits.

"(c) UNIFORM PREMIUM.—The monthly premium and monthly amount charged under subsection (b) of a MedicarePlus organization under this part may not vary among individuals who reside in the same Medi carePlus payment area.

"(d) TERMS AND CONDITIONS OF IMPOSING PREMIUMS.—Each MedicarePlus organization shall permit the payment of net monthly premiums on a monthly basis and may terminate election of individuals for a MedicarePlus plan for failure to make premium payments only in accordance with section 1851(g)(3)(B)(i). A MedicarePlus organization is not authorized to provide for cash or other monetary rebates as an inducement for enrollment or otherwise.

"(e) LIMITATION ON ENROLLEE COST-SHARING.—

"(1) FOR BASIC AND ADDITIONAL BENEFITS.—Except as provided in paragraph (2), in no event may—

"(A) the net monthly premium (multiplied by 12) and the actuarial value of the deductibles, coinsurance, and copayments applicable on average to individuals enrolled under this part with a MedicarePlus plan of an organization with respect to required benefits described in section 1852(a)(1) and additional benefits (if any) required under subsection (f)(1) for a year, exceed

"(B) the actuarial value of the deductibles, coinsurance, and copayments that would be applicable on average to individuals entitled to benefits under part A and enrolled under part B if they were not members of a MedicarePlus organization for the year.

"(2) FOR SUPPLEMENTAL BENEFITS.—If the MedicarePlus organization provides to its members enrolled under this part supplemental benefits described in section 1852(a)(3), the sum of the monthly premium rate (multiplied by 12) charged for such supplemental benefits and the actuarial value of its deductibles, coinsurance, and copayments charged with respect to such benefits may not exceed the adjusted community rate for such benefits (as defined in subsection (f)(4)).

"(3) EXCEPTION FOR MSA PLANS.—Paragraphs (1) and (2) do not apply to an MSA plan.

"(4) DETERMINATION ON OTHER BASIS.—If the Secretary determines that adequate data are not available to determine the actuarial value under paragraph (1)(A) or (2), the Secretary may determine such amount with respect to all individuals in the MedicarePlus payment area, the State, or in the United States, eligible to enroll in the MedicarePlus plan involved under this part or on the basis of other appropriate data.

"(f) REQUIREMENT FOR ADDITIONAL BENEFITS.—

"(1) REQUIREMENT.—

"(A) IN GENERAL.—Each MedicarePlus organization (in relation to a MedicarePlus plan it offers) shall provide that if there is an excess amount (as defined in subparagraph (B)) for the plan for a contract year, subject to the succeeding provisions of this subsection, the organization shall provide to individuals such additional benefits (as the organization may specify) in a value which is at least equal to the adjusted excess amount (as defined in subparagraph (C)).

"(B) EXCESS AMOUNT.—For purposes of this paragraph, the 'excess amount', for an organization for a plan, is the amount (if any) by which—

"(i) the average of the capitation payments made to the organization under section 1853 for the plan at the beginning of contract year, exceeds

"(ii) the actuarial value of the required benefits described in section 1852(a)(1) under the plan for individuals under this part, as determined based upon an adjusted community rate described in paragraph (4) (as reduced for the actuarial value of the coinsurance and deductibles under parts A and B).

"(C) ADJUSTED EXCESS AMOUNT.—For purposes of this paragraph, the 'adjusted excess amount', for an organization for a plan, is the excess amount reduced to reflect any amount withheld and reserved for the organization for the year under paragraph (2).

"(D) NO APPLICATION TO MSA PLANS.—Subparagraph (A) shall not apply to an MSA plan.

"(E) UNIFORM APPLICATION.—This paragraph shall be applied uniformly for all enrollees for a plan in a MedicarePlus payment area.

"(F) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing a MedicarePlus organization from providing health care benefits that are in addition to the benefits otherwise required to be provided under this paragraph and from imposing a premium for such additional benefits.

"(2) STABILIZATION FUND.—A MedicarePlus organization may provide that a part of the value of an excess amount described in paragraph (1) 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 such paragraph. Any of such value of the amount reserved which is not provided as additional benefits described in paragraph (1)(A) to individuals electing the MedicarePlus plan of the organization in accordance with such paragraph prior to the end of such periods, shall revert for the use of such trust funds.

"(3) DETERMINATION BASED ON INSUFFICIENT DATA.—For purposes of this subsection, if the Secretary finds that there is insufficient enrollment experience (including no enrollment experience in the case of a provider-sponsored organization) to determine an average of the capitation payments to be made under this part 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.

"(4) ADJUSTED COMMUNITY RATE.—

"(A) IN GENERAL.—For purposes of this subsection, subject to subparagraph (B), the term 'adjusted community rate' for a service or services means, at the election of a MedicarePlus organization, either—

"(i) the rate of payment for that service or services which the Secretary annually determines would apply to an individual electing a MedicarePlus plan under this part 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

"(ii) such portion of the weighted aggregate premium, which the Secretary annually estimates would apply to such an individual, as the Secretary annually estimates is attributable to that service or services,

but adjusted for differences between the utilization characteristics of the individuals electing coverage under this part and the utilization characteristics of the other enrollees with the plan (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of individuals selecting other MedicarePlus coverage, or MedicarePlus eligible individuals in the area, in the State, or in the United States, eligible to elect MedicarePlus coverage under this part and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively).

"(B) SPECIAL RULE FOR PROVIDER-SPONSORED ORGANIZATIONS.—In the case of a MedicarePlus organization that is a provider-sponsored organization, the adjusted community rate under subparagraph (A) for a MedicarePlus plan of the organization may be computed (in a manner specified by the Secretary) using data in the general commercial marketplace or (during a transition period) based on the costs incurred by the organization in providing such a plan.

"(g) PERIODIC AUDITING.—The Secretary shall provide for the annual auditing of the financial records (including data relating to

medicare utilization, costs, and computation of the adjusted community rate) of at least one-third of the MedicarePlus organizations offering MedicarePlus plans under this part. The Comptroller General shall monitoring auditing activities conducted under this subsection.

"(h) PROHIBITION OF STATE IMPOSITION OF PREMIUM TAXES.—No State may impose a premium tax or similar tax with respect to premiums on MedicarePlus plans or the offering of such plans.

"ORGANIZATIONAL AND FINANCIAL REQUIREMENTS FOR MEDICAREPLUS ORGANIZATIONS; PROVIDER-SPONSORED ORGANIZATIONS

"SEC. 1855. (a) ORGANIZED AND LICENSED UNDER STATE LAW.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), a MedicarePlus organization shall be organized and licensed under State law as a risk-bearing entity eligible to offer health insurance or health benefits coverage in each State in which it offers a MedicarePlus plan.

"(2) SPECIAL EXCEPTION FOR PROVIDER-SPONSORED ORGANIZATIONS.—

"(A) IN GENERAL.—In the case of a provider-sponsored organization that seeks to offer a MedicarePlus plan in a State, the Secretary shall waive the requirement of paragraph (1) that the organization be licensed in that State if—

"(i) the organization files an application for such waiver with the Secretary, and

"(ii) the Secretary determines, based on the application and other evidence presented to the Secretary, that any of the grounds for approval of the application described in subparagraph (B), (C), or (D) has been met.

"(B) FAILURE TO ACT ON LICENSURE APPLICATION ON A TIMELY BASIS.—A ground for approval of such a waiver application is that the State has failed to complete action on a licensing application of the organization within 90 days of the date of the State's receipt of the application. No period before the date of the enactment of this section shall be included in determining such 90-day period.

"(C) DENIAL OF APPLICATION BASED ON DISCRIMINATORY TREATMENT.—A ground for approval of such a waiver application is that the State has denied such a licensing application and—

"(i) the State has imposed documentation or information requirements not related to solvency requirements that are not generally applicable to other entities engaged in substantially similar business, or

"(ii) the standards or review process imposed by the State as a condition of approval of the license imposes any material requirements, procedures, or standards (other than requirements and standards relating to solvency) to such organizations that are not generally applicable to other entities engaged in substantially similar business.

"(D) DENIAL OF APPLICATION BASED ON APPLICATION OF SOLVENCY REQUIREMENTS.—A ground for approval of such a waiver application is that the State has denied such a licensing application based (in whole or in part) on the organization's failure to meet applicable solvency requirements and—

"(i) such requirements are not the same as the solvency standards established under section 1856(a); or

"(ii) the State has imposed as a condition of approval of the license any documentation or information requirements relating to solvency or other material requirements, procedures, or standards relating to solvency that are different from the requirements, procedures, and standards applied by the Secretary under subsection (d)(2).

For purposes of this subparagraph, the term 'solvency requirements' means requirements relating to solvency and other matters covered under the standards established under section 1856(a).

"(E) TREATMENT OF WAIVER.—Subject to section 1852(m), in the case of a waiver granted under this paragraph for a provider-sponsored organization—

"(i) the waiver shall be effective for a 36-month period, except it may be renewed based on a subsequent application filed during the last 6 months of such period,

"(ii) the waiver is conditioned upon the pendency of the licensure application during the period the waiver is in effect, and

"(iii) any provisions of State law which relate to the licensing of the organization and which prohibit the organization from providing coverage pursuant to a contract under this part shall be superseded.

Nothing in this subparagraph shall be construed as limiting the number of times such a waiver may be renewed. Nothing in clause (iii) shall be construed as waiving any provision of State law which relates to quality of care or consumer protection (and does not relate to solvency standards) and which is imposed on a uniform basis and is generally applicable to other entities engaged in substantially similar business.

"(F) PROMPT ACTION ON APPLICATION.—The Secretary shall grant or deny such a waiver application within 60 days after the date the Secretary determines that a substantially complete application has been filed. Nothing in this section shall be construed as preventing an organization which has had such a waiver application denied from submitting a subsequent waiver application.

"(3) EXCEPTION IF REQUIRED TO OFFER MORE THAN MEDICAREPLUS PLANS.—Paragraph (1) shall not apply to a MedicarePlus organization in a State if the State requires the organization, as a condition of licensure, to offer any product or plan other than a MedicarePlus plan.

"(4) LICENSURE DOES NOT SUBSTITUTE FOR OR CONSTITUTE CERTIFICATION.—The fact that an organization is licensed in accordance with paragraph (1) does not deem the organization to meet other requirements imposed under this part.

"(b) PREPAID PAYMENT.—A MedicarePlus organization shall be compensated (except for premiums, deductibles, coinsurance, and copayments) for the provision of health care services to enrolled members under the contract under this part 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.

"(c) ASSUMPTION OF FULL FINANCIAL RISK.—The MedicarePlus organization shall assume full financial risk on a prospective basis for the provision of the health care services (except, at the election of the organization, hospice care) for which benefits are required to be provided under section 1852(a)(1), except that the organization—

"(1) may obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which exceeds $5,000 in any year,

"(2) may obtain insurance or make other arrangements for the cost of such services provided to its enrolled members other than through the organization because medical necessity required their provision before they could be secured through the organization,

"(3) may 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

"(4) may 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.

"(d) CERTIFICATION OF PROVISION AGAINST RISK OF INSOLVENCY FOR UNLICENSED PSOs.—

"(1) IN GENERAL.—Each MedicarePlus organization that is a provider-sponsored organization, that is not licensed by a State under subsection (a), and for which a waiver application has been approved under subsection (a)(2), shall meet standards established under section 1856(a) relating to the financial solvency and capital adequacy of the organization.

"(2) CERTIFICATION PROCESS FOR SOLVENCY STANDARDS FOR PSOS.—The Secretary shall establish a process for the receipt and approval of applications of a provider-sponsored organization described in paragraph (1) for certification (and periodic recertification) of the organization as meeting such solvency standards. Under such process, the Secretary shall act upon such an application not later than 60 days after the date the application has been received.

"(e) PROVIDER-SPONSORED ORGANIZATION DEFINED.—

"(1) IN GENERAL.—In this part, the term 'provider-sponsored organization' means a public or private entity—

"(A) that is established or organized by a health care provider, or group of affiliated health care providers,

"(B) that provides a substantial proportion (as defined by the Secretary in accordance with paragraph (2)) of the health care items and services under the contract under this part directly through the provider or affiliated group of providers, and

"(C) with respect to which those affiliated providers that share, directly or indirectly, substantial financial risk with respect to the provision of such items and services have at least a majority financial interest in the entity.

"(2) SUBSTANTIAL PROPORTION.—In defining what is a 'substantial proportion' for purposes of paragraph (1)(B), the Secretary—

"(A) shall take into account (i) the need for such an organization to assume responsibility for a substantial proportion of services in order to assure financial stability and (ii) 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) both providers are part of a controlled group of corporations under section 1563 of the Internal Revenue Code of 1986, or

"(C) 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.

"(5) HEALTH CARE PROVIDER DEFINED.—In this subsection, the term 'health care provider' means—

"(A) any individual who is engaged in the delivery of health care services in a State and who is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, and

"(B) any entity that is engaged in the delivery of health care services in a State and that, if it is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, is so licensed.

"(6) REGULATIONS.—The Secretary shall issue regulations to carry out this subsection.

"ESTABLISHMENT OF STANDARDS

"SEC. 1856. (a) ESTABLISHMENT OF SOLVENCY STANDARDS FOR PROVIDER-SPONSORED ORGANIZATIONS.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Secretary shall establish, on an expedited basis and using a negotiated rulemaking process under subchapter III of chapter 5 of title 5, United States Code, standards described in section 1855(d)(1) (relating to the financial solvency and capital adequacy of the organization) that entities must meet to qualify as provider-sponsored organizations under this part.

"(B) FACTORS TO CONSIDER FOR SOLVENCY STANDARDS.—In establishing solvency standards under subparagraph (A) for provider-sponsored organizations, the Secretary shall consult with interested parties and shall take into account—

"(i) the delivery system assets of such an organization and ability of such an organization to provide services directly to enrollees through affiliated providers, and

"(ii) alternative means of protecting against insolvency, including reinsurance, unrestricted surplus, letters of credit, guarantees, organizational insurance coverage, partnerships with other licensed entities, and valuation attributable to the ability of such an organization to meet its service obligations through direct delivery of care.

"(C) ENROLLEE PROTECTION AGAINST INSOLVENCY.—Such standards shall include provisions to prevent enrollees from being held liable to any person or entity for the MedicarePlus organization's debts in the event of the organization's insolvency.

"(2) PUBLICATION OF NOTICE.—In carrying out the rulemaking process under this subsection, the Secretary, after consultation with the National Association of Insurance Commissioners, the American Academy of Actuaries, organizations representative of medicare beneficiaries, and other interested parties, shall publish the notice provided for under section 564(a) of title 5, United States Code, by not later than 45 days after the date of the enactment of this section.

"(3) TARGET DATE FOR PUBLICATION OF RULE.—As part of the notice under paragraph (2), and for purposes of this subsection, the 'target date for publication' (referred to in section 564(a)(5) of such title) shall be April 1, 1998.

"(4) ABBREVIATED PERIOD FOR SUBMISSION OF COMMENTS.—In applying section 564(c) of such title under this subsection, '15 days' shall be substituted for '30 days'.

"(5) APPOINTMENT OF NEGOTIATED RULEMAKING COMMITTEE AND FACILITATOR.—The Secretary shall provide for—

"(A) the appointment of a negotiated rulemaking committee under section 565(a) of such title by not later than 30 days after the end of the comment period provided for under section 564(c) of such title (as shortened under paragraph (4)), and

"(B) the nomination of a facilitator under section 566(c) of such title by not later than 10 days after the date of appointment of the committee.

"(6) PRELIMINARY COMMITTEE REPORT.—The negotiated rulemaking committee appointed under paragraph (5) shall report to the Secretary, by not later than January 1, 1998, regarding the committee's progress on achieving a consensus with regard to the rulemaking proceeding and whether such consensus is likely to occur before one month before the target date for publication of the rule. If the committee reports that the committee has failed to make significant progress towards such consensus or is unlikely to reach such consensus by the target date, the Secretary may terminate such process and provide for the publication of a rule under this subsection through such other methods as the Secretary may provide.

"(7) FINAL COMMITTEE REPORT.—If the committee is not terminated under paragraph (6), the rulemaking committee shall submit a report containing a proposed rule by not later than one month before the target date of publication.

"(8) INTERIM, FINAL EFFECT.—The Secretary shall publish a rule under this subsection in the Federal Register by not later than the target date of publication. Such rule shall be effective and final immediately on an interim basis, but is subject to change and revision after public notice and opportunity for a period (of not less than 60 days) for public comment. In connection with such rule, the Secretary shall specify the process for the timely review and approval of applications of entities to be certified as provider-sponsored organizations pursuant to such rules and consistent with this subsection.

"(9) PUBLICATION OF RULE AFTER PUBLIC COMMENT.—The Secretary shall provide for consideration of such comments and republication of such rule by not later than 1 year after the target date of publication.

"(b) ESTABLISHMENT OF OTHER STANDARDS.—

"(1) IN GENERAL.—The Secretary shall establish by regulation other standards (not described in subsection (a)) for MedicarePlus organizations and plans consistent with, and to carry out, this part.

"(2) USE OF CURRENT STANDARDS.—Consistent with the requirements of this part, standards established under this subsection shall be based on standards established under section 1876 to carry out analogous provisions of such section. The Secretary shall also consider State model and other standards relating to consumer protection and assuring quality of care.

"(3) USE OF INTERIM STANDARDS.—For the period in which this part is in effect and standards are being developed and established under the preceding provisions of this subsection, the Secretary shall provide by not later than June 1, 1998, for the application of such interim standards (without regard to any requirements for notice and public comment) as may be appropriate to provide for the expedited implementation of this part. Such interim standards shall not apply after the date standards are established under the preceding provisions of this subsection.

"(4) APPLICATION OF NEW STANDARDS TO ENTITIES WITH A CONTRACT.—In the case of a MedicarePlus organization with a contract in effect under this part at the time standards applicable to the organization under this section are changed, the organization may elect not to have such changes apply to the organization until the end of the current contract year (or, if there is less than 6 months remaining in the contract year, until 1 year after the end of the current contract year).

"(5) RELATION TO STATE LAWS.—Subject to section 1852(m), the standards established under this subsection shall supersede any State law or regulation with respect to MedicarePlus plans which are offered by MedicarePlus organizations under this part to the extent such law or regulation is inconsistent with such standards. The previous sentence shall not be construed as superseding a State law or regulation that is not related to solvency, that is applied on a uniform basis and is generally applicable to other entities engaged in substantially similar business, and that provides consumer protections in addition to, or more stringent than, those provided under the standards under this subsection.

"CONTRACTS WITH MEDICAREPLUS ORGANIZATIONS

"SEC. 1857. (a) IN GENERAL.—The Secretary shall not permit the election under section 1851 of a MedicarePlus plan offered by a MedicarePlus organization under this part, and no payment shall be made under section 1853 to an organization, unless the Secretary has entered into a contract under this section with the organization with respect to the offering of such plan. Such a contract with an organization may cover more than one MedicarePlus plan. Such contract shall provide that the organization agrees to comply with the applicable requirements and standards of this part and the terms and conditions of payment as provided for in this part.

"(b) MINIMUM ENROLLMENT REQUIREMENTS.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary may not enter into a contract under this section with a MedicarePlus organization unless the organization has at least 5,000 individuals (or 1,500 individuals in the case of an organization that is a provider-sponsored organization) who are receiving health benefits through the organization, except that the standards under section 1856 may permit the organization to have a lesser number of beneficiaries (but not less than 500 in the case of an organization that is a provider-sponsored organization) if the organization primarily serves individuals residing outside of urbanized areas.

"(2) EXCEPTION FOR MSA PLAN.—Paragraph (1) shall not apply with respect to a contract that relates only to an MSA plan.

"(3) ALLOWING TRANSITION.—The Secretary may waive the requirement of paragraph (1) during the first 3 contract years with respect to an organization.

"(c) CONTRACT PERIOD AND EFFECTIVENESS.—

"(1) PERIOD.—Each contract under this section shall be for a term of at least one 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.

"(2) TERMINATION AUTHORITY.—In accordance with procedures established under subsection (h), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in an

applicable paragraph of subsection (g)(3) on the MedicarePlus 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 inconsistent with the efficient and effective administration of this part; or

"(C) no longer substantially meets the applicable conditions of this part.

"(3) EFFECTIVE DATE OF CONTRACTS.—The effective date of any contract executed pursuant to this section shall be specified in the contract, except that in no case shall a contract under this section which provides for coverage under an MSA plan be effective before January 1998 with respect to such coverage.

"(4) PREVIOUS TERMINATIONS.—The Secretary may not enter into a contract with a MedicarePlus organization if a previous contract with that organization under this section was terminated at the request of the organization within the preceding five-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

"(5) 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.

"(d) PROTECTIONS AGAINST FRAUD AND BENEFICIARY PROTECTIONS.—

"(1) INSPECTION AND AUDIT.—Each contract under this section shall provide that the Secretary, or any person or organization designated by the Secretary—

"(A) 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

"(B) shall have the right to audit and inspect any books and records of the MedicarePlus 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.

"(2) ENROLLEE NOTICE AT TIME OF TERMINATION.—Each contract under this section shall require the organization 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 with the organization under this part.

"(3) DISCLOSURE.—

"(A) IN GENERAL.—Each MedicarePlus organization shall, in accordance with regulations of the Secretary, report to the Secretary financial information which shall include the following:

"(i) Such information as the Secretary may require demonstrating that the organization has a fiscally sound operation.

"(ii) A copy of the report, if any, filed with the Health Care Financing Administration containing the information required to be reported under section 1124 by disclosing entities.

"(iii) A description of transactions, as specified by the Secretary, between the organization and a party in interest. Such transactions shall include—

"(I) any sale or exchange, or leasing of any property between the organization and a party in interest;

"(II) any furnishing for consideration of goods, services (including management services), or facilities between the organization and a party in interest, but not including salaries paid to employees for services provided in the normal course of their employment and health services provided to members by hospitals and other providers and by staff, medical group (or groups), individual practice association (or associations), or any combination thereof; and

"(III) any lending of money or other extension of credit between an organization and a party in interest.

The Secretary may require that information reported respecting an organization which controls, is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the organization and such entity.

"(B) PARTY IN INTEREST DEFINED.—For the purposes of this paragraph, the term 'party in interest' means—

"(i) any director, officer, partner, or employee responsible for management or administration of a MedicarePlus organization, any person who is directly or indirectly the beneficial owner of more than 5 percent of the equity of the organization, any person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 percent of the organization, and, in the case of a MedicarePlus organization organized as a nonprofit corporation, an incorporator or member of such corporation under applicable State corporation law;

"(ii) any entity in which a person described in clause (i)—

"(I) is an officer or director;

"(II) is a partner (if such entity is organized as a partnership);

"(III) has directly or indirectly a beneficial interest of more than 5 percent of the equity; or

"(IV) has a mortgage, deed of trust, note, or other interest valuing more than 5 percent of the assets of such entity;

"(iii) any person directly or indirectly controlling, controlled by, or under common control with an organization; and

"(iv) any spouse, child, or parent of an individual described in clause (i).

"(C) ACCESS TO INFORMATION.—Each MedicarePlus organization shall make the information reported pursuant to subparagraph (A) available to its enrollees upon reasonable request.

"(4) LOAN INFORMATION.—The contract 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.

"(e) ADDITIONAL CONTRACT TERMS.—

"(1) IN GENERAL.—The contract 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.

"(2) COST-SHARING IN ENROLLMENT-RELATED COSTS.—The contract with a MedicarePlus organization shall require the payment to the Secretary for the organization's pro rata share (as determined by the Secretary) of the estimated costs to be incurred by the Secretary in carrying out section 1851 (relating to enrollment and dissemination of information) and section 4360 of the Omnibus Budget Reconciliation Act of 1990 (relating to the health insurance counseling and assistance program). Such payments are appropriated to defray the costs described in the preceding sentence, to remain available until expended.

"(3) NOTICE TO ENROLLEES IN CASE OF DECERTIFICATION.—If a contract with a MedicarePlus organization is terminated under this section, the organization shall notify each enrollee with the organization under this part of such termination.

"(f) PROMPT PAYMENT BY MEDICAREPLUS ORGANIZATION.—

"(1) REQUIREMENT.—A contract under this part shall require a MedicarePlus 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 the contract, if the services or supplies are not furnished under a contract between the organization and the provider or supplier.

"(2) SECRETARY'S OPTION TO BYPASS NONCOMPLYING ORGANIZATION.—In the case of a MedicarePlus eligible organization which the Secretary determines, after notice and opportunity for a hearing, has failed to make payments of amounts in compliance with paragraph (1), the Secretary may provide for direct payment of the amounts owed to providers and suppliers for covered services and supplies furnished to individuals enrolled under this part under the contract. If the Secretary provides for the 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 the Secretary's costs in making the payments).

"(g) INTERMEDIATE SANCTIONS.—

"(1) IN GENERAL.—If the Secretary determines that a MedicarePlus organization with a contract under this section—

"(A) 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;

"(B) imposes net monthly premiums on individuals enrolled under this part in excess of the net monthly premiums permitted;

"(C) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this part;

"(D) 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;

"(E) 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;

"(F) fails to comply with the requirements of section 1852(j)(3); or

"(G) 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 paragraph (2).

"(2) REMEDIES.—The remedies described in this paragraph are—

"(A) civil money penalties of not more than $25,000 for each determination under paragraph (1) or, with respect to a determination under subparagraph (D) or (E)(i) of such paragraph, of not more than $100,000 for each such determination, plus, with respect to a determination under paragraph (1)(B), double the excess amount charged in violation of such paragraph (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 paragraph (1)(D), $15,000 for each individual not enrolled as a result of the practice involved,

"(B) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

"(C) suspension of payment to the organization under this part for individuals enrolled after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

"(3) OTHER INTERMEDIATE SANCTIONS.—In the case of a MedicarePlus organization for which the Secretary makes a determination under subsection (c)(2) the basis of which is not described in paragraph (1), the Secretary may apply the following intermediate sanctions:

"(A) Civil money penalties of not more than $25,000 for each determination under subsection (c)(2) 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.

"(B) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under subsection (g) during which the deficiency that is the basis of a determination under subsection (c)(2) exists.

"(C) Suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under subsection (c)(2) 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.

"(h) PROCEDURES FOR TERMINATION.—

"(1) IN GENERAL.—The Secretary may terminate a contract with a MedicarePlus organization under this section in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary 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 subsection (c)(2);

"(B) the Secretary shall impose more severe sanctions on an organization that has a history of deficiencies or that has not taken steps 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 terminating the contract.

"(2) CIVIL MONEY PENALTIES.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subsection (f) or under paragraph (2) or (3) of subsection (g) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

"(3) EXCEPTION FOR IMMINENT AND SERIOUS RISK TO HEALTH.—Paragraph (1) shall not apply if the Secretary determines that a delay in termination, resulting from compliance with the procedures specified in such paragraph prior to termination, would pose an imminent and serious risk to the health of individuals enrolled under this part with the organization.

"DEFINITIONS; MISCELLANEOUS PROVISIONS

"SEC. 1859. (a) DEFINITIONS RELATING TO MEDICAREPLUS ORGANIZATIONS.—In this part—

"(1) MEDICAREPLUS ORGANIZATION.—The term 'MedicarePlus organization' means a public or private entity that is certified under section 1856 as meeting the requirements and standards of this part for such an organization.

"(2) PROVIDER-SPONSORED ORGANIZATION.—The term 'provider-sponsored organization' is defined in section 1855(e)(1).

"(b) DEFINITIONS RELATING TO MEDICAREPLUS PLANS.—

"(1) MEDICAREPLUS PLAN.—The term 'MedicarePlus plan' means health benefits coverage offered under a policy, contract, or plan by a MedicarePlus organization pursuant to and in accordance with a contract under section 1857.

"(2) MSA PLAN.—

"(A) IN GENERAL.—The term 'MSA plan' means a MedicarePlus plan that—

"(i) provides reimbursement for at least the items and services described in section 1852(a)(1) in a year but only after the enrollee incurs countable expenses (as specified under the plan) equal to the amount of an annual deductible (described in subparagraph (B));

"(ii) counts as such expenses (for purposes of such deductible) at least all amounts that would have been payable under parts A and B, and that would have been payable by the enrollee as deductibles, coinsurance, or copayments, if the enrollee had elected to receive benefits through the provisions of such parts; and

"(iii) provides, after such deductible is met for a year and for all subsequent expenses for items and services referred to in clause (i) in the year, for a level of reimbursement that is not less than—

"(I) 100 percent of such expenses, or

"(II) 100 percent of the amounts that would have been paid (without regard to any deductibles or coinsurance) under parts A and B with respect to such expenses,

whichever is less.

"(B) DEDUCTIBLE.—The amount of annual deductible under an MSA plan—

"(i) for contract year 1999 shall be not more than $6,000; and

"(ii) for a subsequent contract year shall be not more than the maximum amount of such deductible for the previous contract year under this subparagraph increased by the national per capita MedicarePlus growth percentage under section 1853(c)(6) for the year.

If the amount of the deductible under clause (ii) is not a multiple of $50, the amount shall be rounded to the nearest multiple of $50.

"(c) OTHER REFERENCES TO OTHER TERMS.—

"(1) MEDICAREPLUS ELIGIBLE INDIVIDUAL.—The term 'MedicarePlus eligible individual' is defined in section 1851(a)(3).

"(2) MEDICAREPLUS PAYMENT AREA.—The term 'MedicarePlus payment area' is defined in section 1853(d).

"(3) NATIONAL PER CAPITA MEDICAREPLUS GROWTH PERCENTAGE.—The 'national per capita MedicarePlus growth percentage' is defined in section 1853(c)(6).

"(4) MONTHLY PREMIUM; NET MONTHLY PREMIUM.—The terms 'monthly premium' and 'net monthly premium' are defined in section 1854(a)(2).

"(d) COORDINATED ACUTE AND LONG-TERM CARE BENEFITS UNDER A MEDICAREPLUS PLAN.—Nothing in this part shall be construed as preventing a State from coordinating benefits under a medicaid plan under title XIX with those provided under a MedicarePlus plan in a manner that assures continuity of a full-range of acute care and long-term care services to poor elderly or disabled individuals eligible for benefits under this title and under such plan.

"(e) RESTRICTION ON ENROLLMENT FOR CERTAIN MEDICAREPLUS PLANS.—

"(1) IN GENERAL.—In the case of a MedicarePlus religious fraternal benefit society plan described in paragraph (2), notwithstanding any other provision of this part to the contrary and in accordance with regulations of the Secretary, the society offering the plan may restrict the enrollment of individuals under this part to individuals who are members of the church, convention, or group described in paragraph (3)(B) with which the society is affiliated.

"(2) MEDICAREPLUS RELIGIOUS FRATERNAL BENEFIT SOCIETY PLAN DESCRIBED.—For purposes of this subsection, a MedicarePlus religious fraternal benefit society plan described in this paragraph is a MedicarePlus plan described in section 1851(a)(2)(A) that—

"(A) is offered by a religious fraternal benefit society described in paragraph (3) only to members of the church, convention, or group described in paragraph (3)(B); and

"(B) permits all such members to enroll under the plan without regard to health status-related factors.

Nothing in this subsection shall be construed as waiving any plan requirements relating to financial solvency. In developing solvency standards under section 1856, the Secretary shall take into account open contract and assessment features characteristic of fraternal insurance certificates.

"(3) RELIGIOUS FRATERNAL BENEFIT SOCIETY DEFINED.—For purposes of paragraph (2)(A), a 'religious fraternal benefit society' described in this section is an organization that—

"(A) is exempt from Federal income taxation under section 501(c)(8) of the Internal Revenue Code of 1986;

"(B) is affiliated with, carries out the tenets of, and shares a religious bond with, a church or convention or association of churches or an affiliated group of churches;

"(C) offers, in addition to a MedicarePlus religious fraternal benefit society plan, health coverage to individuals not entitled to benefits under this title who are members of such church, convention, or group; and

"(D) does not impose any limitation on membership in the society based on any health status-related factor.

"(4) PAYMENT ADJUSTMENT.—Under regulations of the Secretary, in the case of individuals enrolled under this part under a MedicarePlus religious fraternal benefit society plan described in paragraph (2), the Secretary shall provide for such adjustment to the payment amounts otherwise established under section 1854 as may be appropriate to assure an appropriate payment level, taking into account the actuarial

characteristics and experience of such individuals.".

(b) REPORT ON COVERAGE OF BENEFICIARIES WITH END-STAGE RENAL DISEASE.—The Secretary of Health and Human Services shall provide for a study on the feasibility and impact of removing the limitation under section 1851(b)(3)(B) of the Social Security Act (as inserted by subsection (a)) on eligibility of most individuals medically determined to have end-stage renal disease to enroll in MedicarePlus plans. By not later than October 1, 1998, the Secretary shall submit to Congress a report on such study and shall include in the report such recommendations regarding removing or restricting the limitation as may be appropriate.

(c) REPORT ON MEDICAREPLUS TEACHING PROGRAMS AND USE OF DSH AND TEACHING HOSPITALS.—Based on the information provided to the Secretary of Health and Human Services under section 1852(k) of the Social Security Act and such information as the Secretary may obtain, by not later than October 1, 1999, the Secretary shall submit to Congress a report on graduate medical education programs operated by MedicarePlus organizations and the extent to which MedicarePlus organizations are providing for payments to hospitals described in such section.

SEC. 4002. TRANSITIONAL RULES FOR CURRENT MEDICARE HMO PROGRAM.

(a) AUTHORIZING TRANSITIONAL WAIVER OF 50:50 RULE.—Section 1876(f) (42 U.S.C. 1395mm(f)) is amended—

(1) in paragraph (2), by striking "The Secretary" and inserting "Subject to paragraph (4), the Secretary", and

(2) by adding at the end the following new paragraph:

"(4) Effective for contract periods beginning after December 31, 1996, the Secretary may waive or modify the requirement imposed by paragraph (1) to the extent the Secretary finds that it is in the public interest.".

(b) TRANSITION.—Section 1876 (42 U.S.C. 1395mm) is amended by adding at the end the following new subsection:

"(k)(1) Except as provided in paragraph (3), the Secretary shall not enter into, renew, or continue any risk-sharing contract under this section with an eligible organization for any contract year beginning on or after—

"(A) the date standards for MedicarePlus organizations and plans are first established under section 1856 with respect to MedicarePlus organizations that are insurers or health maintenance organizations, or

"(B) in the case of such an organization with such a contract in effect as of the date such standards were first established, 1 year after such date.

"(2) The Secretary shall not enter into, renew, or continue any risk-sharing contract under this section with an eligible organization for any contract year beginning on or after January 1, 2000.

"(3) An individual who is enrolled in part B only and is enrolled in an eligible organization with a risk-sharing contract under this section on December 31, 1998, may continue enrollment in such organization in accordance with regulations issued by not later then July 1, 1998.

"(4) Notwithstanding subsection (a), the Secretary shall provide that payment amounts under risk-sharing contracts under this section for months in a year (beginning with January 1998) shall be computed—

"(A) with respect to individuals entitled to benefits under both parts A and B, by substituting payment rates under section 1853(a) for the payment rates otherwise established under subsection 1876(a), and

"(B) with respect to individuals only entitled to benefits under part B, by substituting an appropriate proportion of such rates (reflecting the relative proportion of payments under this title attributable to such part) for the payment rates otherwise established under subsection (a).

For purposes of carrying out this paragraph for payments for months in 1998, the Secretary shall compute, announce, and apply the payment rates under section 1853(a) (notwithstanding any deadlines specified in such section) in as timely a manner as possible and may (to the extent necessary) provide for retroactive adjustment in payments made under this section not in accordance with such rates.".

(c) ENROLLMENT TRANSITION RULE.—An individual who is enrolled on December 31, 1998, with an eligible organization under section 1876 of the Social Security Act (42 U.S.C. 1395mm) shall be considered to be enrolled with that organization on January 1, 1999, under part C of title XVIII of such Act if that organization has a contract under that part for providing services on January 1, 1999 (unless the individual has disenrolled effective on that date).

(d) ADVANCE DIRECTIVES.—Section 1866(f) (42 U.S.C. 1395c(f)) is amended—

(1) in paragraph (1)—

(A) by inserting "1855(i)," after "1833(s),", and

(B) by inserting ", MedicarePlus organization," after "provider of services"; and

(2) in paragraph (2)(E), by inserting "or a MedicarePlus organization" after "section 1833(a)(1)(A)".

(e) EXTENSION OF PROVIDER REQUIREMENT.—Section 1866(a)(1)(O) (42 U.S.C. 1395cc(a)(1)(O)) is amended—

(1) by striking "in the case of hospitals and skilled nursing facilities,";

(2) by striking "inpatient hospital and extended care";

(3) by inserting "with a MedicarePlus organization under part C or" after "any individual enrolled";

(4) by striking "(in the case of hospitals) or limits (in the case of skilled nursing facilities)"; and

(5) by inserting "(less any payments under section 1858)" after "under this title".

(f) ADDITIONAL CONFORMING CHANGES.—

(1) CONFORMING REFERENCES TO PREVIOUS PART C.—Any reference in law (in effect before the date of the enactment of this Act) to part C of title XVIII of the Social Security Act is deemed a reference to part D of such title (as in effect after such date).

(2) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this chapter.

(g) IMMEDIATE EFFECTIVE DATE FOR CERTAIN REQUIREMENTS FOR DEMONSTRATIONS.—Section 1857(e)(2) of the Social Security Act (requiring contribution to certain costs related to the enrollment process comparative materials) applies to demonstrations with respect to which enrollment is effected or coordinated under section 1851 of such Act.

(h) USE OF INTERIM, FINAL REGULATIONS.—In order to carry out the amendments made by this chapter in a timely manner, the Secretary of Health and Human Services may promulgate regulations that take effect on an interim basis, after notice and pending opportunity for public comment.

(i) TRANSITION RULE FOR PSO ENROLLMENT.—In applying subsection (g)(1) of section 1876 of the Social Security Act (42 U.S.C. 1395mm) to a risk-sharing contract entered into with an eligible organization that is a provider-sponsored organization (as defined in section 1855(e)(1) of such Act, as inserted by section 4001) for a contract year beginning on or after January 1, 1998, there shall be substituted for the minimum number of enrollees provided under such section the minimum number of enrollees permitted under section 1857(b)(1) of such Act (as so inserted).

SEC. 4003. CONFORMING CHANGES IN MEDIGAP PROGRAM.

(a) CONFORMING AMENDMENTS TO MEDICAREPLUS CHANGES.—

(1) IN GENERAL.—Section 1882(d)(3)(A)(i) (42 U.S.C. 1395ss(d)(3)(A)(i)) is amended—

(A) in the matter before subclause (I), by inserting "(including an individual electing a MedicarePlus plan under section 1851)" after "of this title"; and

(B) in subclause (II)—

(i) by inserting "in the case of an individual not electing a MedicarePlus plan" after "(II)", and

(ii) by inserting before the comma at the end the following: "or in the case of an individual electing a MedicarePlus plan, a medicare supplemental policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under the MedicarePlus plan or under another medicare supplemental policy".

(2) CONFORMING AMENDMENTS.—Section 1882(d)(3)(B)(i)(I) (42 U.S.C. 1395ss(d)(3)(B)(i)(I)) is amended by inserting "(including any MedicarePlus plan)" after "health insurance policies".

(3) MEDICAREPLUS PLANS NOT TREATED AS MEDICARE SUPPLEMENTARY POLICIES.—Section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended by inserting "or a MedicarePlus plan or" after "does not include"

(b) ADDITIONAL RULES RELATING TO INDIVIDUALS ENROLLED IN MSA PLANS.—Section 1882 (42 U.S.C. 1395ss) is further amended by adding at the end the following new subsection:

"(u)(1) It is unlawful for a person to sell or issue a policy described in paragraph (2) to an individual with knowledge that the individual has in effect under section 1851 an election of an MSA plan.

"(2) A policy described in this subparagraph is a health insurance policy that provides for coverage of expenses that are otherwise required to be counted toward meeting the annual deductible amount provided under the MSA plan.".

Subchapter B—Special Rules for MedicarePlus Medical Savings Accounts

SEC. 4006. MEDICAREPLUS MSA.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to amounts specifically excluded from gross income) is amended by redesignating section 138 as section 139 and by inserting after section 137 the following new section:

"SEC. 138. MEDICAREPLUS MSA.

"(a) EXCLUSION.—Gross income shall not include any payment to the MedicarePlus MSA of an individual by the Secretary of Health and Human Services under part C of title XVIII of the Social Security Act.

"(b) MEDICAREPLUS MSA.—For purposes of this section, the term 'MedicarePlus MSA' means a medical savings account (as defined in section 220(d))—

"(1) which is designated as a MedicarePlus MSA,

"(2) with respect to which no contribution may be made other than—

"(A) a contribution made by the Secretary of Health and Human Services pursuant to part C of title XVIII of the Social Security Act, or

"(B) a trustee-to-trustee transfer described in subsection (c)(4),

"(3) the governing instrument of which provides that trustee-to-trustee transfers described in subsection (c)(4) may be made to and from such account, and

"(4) which is established in connection with an MSA plan described in section 1859(b)(2) of the Social Security Act.

"(c) SPECIAL RULES FOR DISTRIBUTIONS.—

"(1) DISTRIBUTIONS FOR QUALIFIED MEDICAL EXPENSES.—In applying section 220 to a MedicarePlus MSA—

"(A) qualified medical expenses shall not include amounts paid for medical care for any individual other than the account holder, and

"(B) section 220(d)(2)(C) shall not apply.

"(2) PENALTY FOR DISTRIBUTIONS FROM MEDICAREPLUS MSA NOT USED FOR QUALIFIED MEDICAL EXPENSES IF MINIMUM BALANCE NOT MAINTAINED.—

"(A) IN GENERAL.—The tax imposed by this chapter for any taxable year in which there is a payment or distribution from a MedicarePlus MSA which is not used exclusively to pay the qualified medical expenses of the account holder shall be increased by 50 percent of the excess (if any) of—

"(i) the amount of such payment or distribution, over

"(ii) the excess (if any) of—

"(I) the fair market value of the assets in such MSA as of the close of the calendar year preceding the calendar year in which the taxable year begins, over

"(II) an amount equal to 60 percent of the deductible under the MedicarePlus MSA plan covering the account holder as of January 1 of the calendar year in which the taxable year begins.

Section 220(f)(2) shall not apply to any payment or distribution from a MedicarePlus MSA.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply if the payment or distribution is made on or after the date the account holder—

"(i) becomes disabled within the meaning of section 72(m)(7), or

"(ii) dies.

"(C) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) all MedicarePlus MSAs of the account holder shall be treated as 1 account,

"(ii) all payments and distributions not used exclusively to pay the qualified medical expenses of the account holder during any taxable year shall be treated as 1 distribution, and

"(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

"(3) WITHDRAWAL OF ERRONEOUS CONTRIBUTIONS.—Section 220(f)(2) and paragraph (2) of this subsection shall not apply to any payment or distribution from a MedicarePlus MSA to the Secretary of Health and Human Services of an erroneous contribution to such MSA and of the net income attributable to such contribution.

"(4) TRUSTEE-TO-TRUSTEE TRANSFERS.—Section 220(f)(2) and paragraph (2) of this subsection shall not apply to any trustee-to-trustee transfer from a MedicarePlus MSA of an account holder to another MedicarePlus MSA of such account holder.

"(d) SPECIAL RULES FOR TREATMENT OF ACCOUNT AFTER DEATH OF ACCOUNT HOLDER.—In applying section 220(f)(8)(A) to an account which was a MedicarePlus MSA of a decedent, the rules of section 220(f) shall apply in lieu of the rules of subsection (c) of this section with respect to the spouse as the account holder of such MedicarePlus MSA.

"(e) REPORTS.—In the case of a MedicarePlus MSA, the report under section 220(h)—

"(1) shall include the fair market value of the assets in such MedicarePlus MSA as of the close of each calendar year, and

"(2) shall be furnished to the account holder—

"(A) not later than January 31 of the calendar year following the calendar year to which such reports relate, and

"(B) in such manner as the Secretary prescribes in such regulations.

"(f) COORDINATION WITH LIMITATION ON NUMBER OF TAXPAYERS HAVING MEDICAL SAVINGS ACCOUNTS.—Subsection (i) of section 220 shall not apply to an individual with respect to a MedicarePlus MSA, and MedicarePlus MSA's shall not be taken into account in determining whether the numerical limitations under section 220(j) are exceeded."

(b) TECHNICAL AMENDMENTS.—

(1) The last sentence of section 4973(d) of such Code is amended by inserting "or section 138(c)(3)" after "section 220(f)(3)".

(2) Subsection (b) of section 220 of such Code is amended by adding at the end the following new paragraph:

"(7) MEDICARE ELIGIBLE INDIVIDUALS.—The limitation under this subsection for any month with respect to an individual shall be zero for the first month such individual is entitled to benefits under title XVIII of the Social Security Act and for each month thereafter."

(3) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following:

"Sec. 138. MedicarePlus MSA.

"Sec. 139. Cross references to other Acts.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

Subchapter C—GME, IME, and DSH Payments for Managed Care Enrollees

SEC. 4008. GRADUATE MEDICAL EDUCATION AND INDIRECT MEDICAL EDUCATION PAYMENTS FOR MANAGED CARE ENROLLEES.

(a) PAYMENTS TO MANAGED CARE ORGANIZATIONS OPERATING GRADUATE MEDICAL EDUCATION PROGRAMS.—Section 1853 (as inserted by section 4001) is amended by adding at the end the following:

"(h) PAYMENTS FOR DIRECT COSTS OF GRADUATE MEDICAL EDUCATION PROGRAMS.—

"(1) ADDITIONAL PAYMENT TO BE MADE.—Effective January 1, 1998, each contract with a MedicarePlus organization under this section (and each risk-sharing contract with an eligible organization under section 1876) shall provide for an additional payment for Medicare's share of allowable direct graduate medical education costs incurred by such an organization for an approved medical residency program.

"(2) ALLOWABLE COSTS.—If the organization has an approved medical residency program that incurs all or substantially all of the costs of the program, subject to section 1858(a)(3), the allowable costs for such a program shall equal the national average per resident amount times the number of full-time-equivalent residents in the program in non-hospital settings.

"(3) DEFINITIONS.—As used in this subsection:

"(A) The terms 'approved medical residency program', 'direct graduate medical education costs', and 'full-time-equivalent residents' have the same meanings as under section 1886(h).

"(B) The term 'Medicare's share' means, with respect to a MedicarePlus or eligible organization, the ratio of the number of individuals enrolled with the organization under this part (or enrolled under a risk-sharing contract under section 1876, respectively) to the total number of individuals enrolled with the organization.

"(C) The term 'national average per resident amount' means an amount estimated by the Secretary to equal the weighted average amount that would be paid per full-time-equivalent resident under section 1886(h) for the calendar year (determined separately for primary care residency programs as defined under section 1886(h) (including obstetrics and gynecology residency programs) and for other residency programs).".

(b) PAYMENTS TO HOSPITALS FOR DIRECT AND INDIRECT COSTS OF GRADUATE MEDICAL EDUCATION PROGRAMS ATTRIBUTABLE TO MANAGED CARE ENROLLEES.—Part C of title XVIII, as amended by section 4001, is amended by inserting after section 1857 the following new section:

"PAYMENTS TO HOSPITALS FOR CERTAIN COSTS ATTRIBUTABLE TO MANAGED CARE ENROLLEES

"SEC. 1858. (a) COSTS OF GRADUATE MEDICAL EDUCATION.—

"(1) IN GENERAL.—For portions of cost reporting periods occurring on or after January 1, 1998, the Secretary shall provide for an additional payment amount for each subsection (d) hospital (as defined in section 1886(d)(1)(B)), each PPS-exempt hospital described in clause (i) through (v) of such section, and for each hospital reimbursed under a reimbursement system authorized section 1814(b)(3) that—

"(A) furnishes services to individuals who are enrolled under a risk-sharing contract with an eligible organization under section 1876 and who are entitled to part A and to individuals who are enrolled with a MedicarePlus organization under part C, and

"(B) has an approved medical residency training program.

"(2) PAYMENT AMOUNT.—

"(A) IN GENERAL.—Subject to paragraph (3)(B), the amount of the payment under this subsection shall be the sum of—

"(i) the amount determined under subparagraph (B), and

"(ii) the amount determined under subparagraph (C).

Clause (ii) shall not apply in the case of a hospital that is not a PPS-exempt hospital described in clause (i) through (v) of section 1886(d)(1)(B),

"(B) DIRECT AMOUNT.—The amount determined under this subparagraph for a period is equal to the product of—

"(i) the aggregate approved amount (as defined in section 1886(h)(3)(B)) for that period; and

"(ii) the fraction of the total number of inpatient-bed-days (as established by the Secretary) during the period which are attributable to individuals described in paragraph (1).

"(C) INDIRECT AMOUNT.—The amount determined under this subparagraph is equal to the product of—

"(i) the amount of the indirect teaching adjustment factor applicable to the hospital under section 1886(d)(5)(B); and

"(ii) the product of—

"(I) the number of discharges attributable to individuals described in paragraph (1), and

"(II) the estimated average per discharge amount that would otherwise have been paid under section 1886(d)(1)(A) if the individuals had not been enrolled as described in such paragraph.

"(D) SPECIAL RULE.—The Secretary shall establish rules for the application of subparagraph (B) and for the computation of the amounts described in subparagraph (C)(i)) and subparagraph (C)(ii)(I) to a hospital reimbursed under a reimbursement system authorized under section 1814(b)(3) in a manner similar to the manner of applying such subparagraph and computing such amounts as if the hospital were not reimbursed under such section.

"(3) LIMITATION.—

"(A) DETERMINATIONS.—At the beginning of each year, the Secretary shall—

"(i) estimate the sum of the amount of the payments under this subsection and the payments under section 1853(h), for services or discharges occurring in the year, and

"(ii) determine the amount of the annual payment limit under subparagraph (C) for such year.

"(B) IMPOSITION OF LIMIT.—If the amount estimated under subparagraph (A)(i) for a year exceeds the amount determined under subparagraph (A)(ii) for the year, then the Secretary shall adjust the amounts of the payments described in subparagraph (A)(i) for the year in a pro rata manner so that the total of such payments in the year do not exceed the annual payment limit determined under subparagraph (A)(ii) for that year.

"(C) ANNUAL PAYMENT LIMIT.—

"(i) IN GENERAL.—The annual payment limit under this subparagraph for a year is the sum, over all counties or MedicarePlus payment areas, of the product of—

"(I) the annual GME per capita payment rate (described in clause (ii)) for the county or area, and

"(II) the Secretary's projection of average enrollment of individuals described in paragraph (1) who are residents of that county or area, adjusted to reflect the relative demographic or risk characteristics of such enrollees.

"(ii) GME PER CAPITA PAYMENT RATE.—The GME per capita payment rate described in this clause for a particular county or MedicarePlus payment area for a year is the GME proportion (as specified in clause (iii)) of the annual MedicarePlus capitation rate (as calculated under section 1853(c)) for the county or area and year involved.

"(iii) GME PROPORTION.—For purposes of clause (ii), the GME proportion for a county or area and a year is equal to the phase-in percentage (specified in clause (vi)) of the ratio of (I) the projected GME payment amount for the county or area (as determined under clause (v)), to (II) the average per capita cost for the county or area for the year (determined under clause (vi)).

"(iv) PHASE-IN PERCENTAGE.—The phase-in percentage specified in this clause for—

"(I) 1998 is 20 percent,

"(II) 1999 is 40 percent,

"(III) 2000 is 60 percent,

"(IV) 2001 is 80 percent, or

"(V) any subsequent year is 100 percent.

"(v) PROJECTED GME PAYMENT AMOUNT.—he projected GME payment amount for a county or area—

"(I) for 1998, is the amount included in the per capita rate of payment for 1997 determined under section 1876(a)(1)(C) for the payment adjustments described in section 1886(d)(5)(B) and section 1886(h) for that county or area, adjusted by the general GME update factor (as defined in clause (vii)) for 1998, or

"(II) for a subsequent year, is the projected GME payment amount for the county or area for the previous year, adjusted by the general GME update factor for such subsequent year.

The Secretary shall determine the amount described in subclause (I) for a county or other area that includes hospitals reimbursed under section 1814(b)(3) as though such hospitals had not been reimbursed under such section.

"(vi) AVERAGE PER CAPITA COST.—The average per capita cost for the county or area determined under this clause for—

"(I) 1998 is the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) for the county or area, increased by the national per capita MedicarePlus growth percentage for 1998 (as defined in section 1853(c)(6), but determined without regard to the adjustment described in subparagraph (B) of such section); or

"(II) a subsequent year is the average per capita cost determined under this clause for the previous year increased by the national per capita MedicarePlus growth percentage for the year involved (as defined in section 1853(c)(6), but determined without regard to the adjustment described in subparagraph (B) of such section).

"(vii) GENERAL GME UPDATE FACTOR.—For purposes of clause (v), the 'general GME update factor' for a year is equal to the Secretary's estimate of the national average percentage change in average per capita payments under sections 1886(d)(5)(B) and 1886(h) from the previous year to the year involved. Such amount takes into account changes in law and regulation affecting payment amounts under such sections.".

SEC. 4009. DISPROPORTIONATE SHARE HOSPITAL PAYMENTS FOR MANAGED CARE ENROLLEES.

Section 1858, as inserted by section 4008(b), is further amended by adding at the end the following new subsection:

"(b) DISPROPORTIONATE SHARE HOSPITAL PAYMENTS.—

"(1) IN GENERAL.—For portions of cost reporting periods occurring on or after January 1, 1998, the Secretary shall provide for an additional payment amount for each subsection (d) hospital (as defined in section 1886(d)(1)(B)) and for each hospital reimbursed a demonstration project reimbursement system under section 1814(b)(3) that—

"(A) furnishes services to individuals who are enrolled under a risk-sharing contract with an eligible organization under section 1876 and who are entitled to part A and to individuals who are enrolled with a MedicarePlus organization under this part, and

"(B) is (or, if it were not reimbursed under section 1814(b)(3), would qualify as) a disproportionate share hospital described in section 1886(d)(5)(F)(i).

"(2) AMOUNT OF PAYMENT.—Subject to paragraph (3)(B), the amount of the payment under this subsection shall be the product of—

"(A) the amount of the disproportionate share adjustment percentage applicable to the hospital under section 1886(d)(5)(F); and

"(B) the product described in subsection (a)(2)(C)(ii).

The Secretary shall establish rules for the computation of the amount described in subparagraph (A) for a hospital reimbursed under section 1814(b)(3).

"(3) LIMIT.—

"(A) DETERMINATION.—At the beginning of each year, the Secretary shall—

"(i) estimate the sum of the payments under this subsection for services or discharges occurring in the year, and

"(ii) determine the amount of the annual payment limit under subparagraph (C)) for such year.

"(B) IMPOSITION OF LIMIT.—If the amount estimated under subparagraph (A)(i) for a year exceeds the amount determined under subparagraph (A)(ii) for the year, then the Secretary shall adjust the amounts of the payments under this subsection for the year in a pro rata manner so that the total of such payments in the year do not exceed the annual payment limit determined under subparagraph (A)(ii) for that year.

"(C) ANNUAL PAYMENT LIMIT.—The annual payment limit under this subparagraph for a year shall be determined in the same manner as the annual payment limit is determined under clause (i) of subsection (a)(3)(C), except that, for purposes of this clause, any reference in clauses (i) through (vii) of such subsection—

"(i) to a payment adjustment under subsection (a) is deemed a reference to a payment adjustment under this subsection, or

"(ii) to payments or payment adjustments under section 1886(d)(5)(B) and 1886(h) is deemed a reference to payments and payment adjustments under section 1886(d)(5)(F).".

CHAPTER 2—INTEGRATED LONG-TERM CARE PROGRAMS

Subchapter A—Programs of All-inclusive Care for the Elderly (PACE)

SEC. 4011. REFERENCE TO COVERAGE OF PACE UNDER THE MEDICARE PROGRAM.

For provision amending title XVIII of the Social Security Act to provide for payments to, and coverage of benefits under, Programs of All-inclusive Care for the Elderly (PACE), see section 3431.

SEC. 4012. REFERENCE TO ESTABLISHMENT OF PACE PROGRAM AS MEDICAID STATE OPTION.

For provision amending title XIX of the Social Security Act to establish the PACE program as a medicaid State option, see section 3432.

Subchapter B—Social Health Maintenance Organizations

SEC. 4015. SOCIAL HEALTH MAINTENANCE ORGANIZATIONS (SHMOS).

(a) EXTENSION OF DEMONSTRATION PROJECT AUTHORITIES.—Section 4018(b) of the Omnibus Budget Reconciliation Act of 1987 is amended—

(1) in paragraph (1), by striking "1997" and inserting "2000", and

(2) in paragraph (4), by striking "1998" and inserting "2001".

(b) EXPANSION OF CAP.—Section 13567(c) of the Omnibus Budget Reconciliation Act of 1993 is amended by striking "12,000" and inserting "36,000".

(b) REPORT ON INTEGRATION AND TRANSITION.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall submit to Congress, by not later than January 1, 1999, a plan for the integration of health plans offered by social health maintenance organizations (including SHMO I and SHMO II sites developed under section 2355 of the Deficit Reduction Act of 1984 and under the amendment made by section 4207(b)(3)(B)(i) of OBRA-1990, respectively) and similar plans

as an option under the MedicarePlus program under part C of title XVIII of the Social Security Act.

(2) PROVISION FOR TRANSITION.—Such plan shall include a transition for social health maintenance organizations operating under demonstration project authority under such section.

(3) PAYMENT POLICY.—The report shall also include recommendations on appropriate payment levels for plans offered by such organizations, including an analysis of the application of risk adjustment factors appropriate to the population served by such organizations.

Subchapter C—Other Programs

SEC. 4018. ORDERLY TRANSITION OF MUNICIPAL HEALTH SERVICE DEMONSTRATION PROJECTS.

Section 9215 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 6135 of OBRA–1989 and section 13557 of OBRA–1993, is further amended—

(1) by inserting "(a)" before "The Secretary", and

(2) by adding at the end the following: "Subject to subsection (c), the Secretary may further extend such demonstration projects through December 31, 2000, but only with respect to individuals are enrolled with such projects before January 1, 1998.

"(b) The Secretary shall work with each such demonstration project to develop a plan, to be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate by March 31, 1998, for the orderly transition of demonstration projects and the project enrollees to a non-demonstration project health care delivery system, such as through integration with private or public health plan, including a medicaid managed care or MedicarePlus plan.

"(c) A demonstration project under subsection (a) which does not develop and submit a transition plan under subsection (b) by March 31, 1998, or, if later, 6 months after the date of the enactment of this Act, shall be discontinued as of December 31, 1998. The Secretary shall provide appropriate technical assistance to assist in the transition so that disruption of medical services to project enrollees may be minimized.".

SEC. 4019. EXTENSION OF CERTAIN MEDICARE COMMUNITY NURSING ORGANIZATION DEMONSTRATION PROJECTS.

Notwithstanding any other provision of law, demonstration projects conducted under section 4079 of the Omnibus Budget Reconciliation Act of 1987 may be conducted for an additional period of 2 years, and the deadline for any report required relating to the results of such projects shall be not later than 6 months before the end of such additional period.

CHAPTER 3—MEDICARE PAYMENT ADVISORY COMMISSION

SEC. 4021. MEDICARE PAYMENT ADVISORY COMMISSION.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1804 the following new section:

"MEDICARE PAYMENT ADVISORY COMMISSION

"SEC. 1805. (a) ESTABLISHMENT.—There is hereby established the Medicare Payment Advisory Commission (in this section referred to as the 'Commission').

"(b) DUTIES.—

"(1) REVIEW OF PAYMENT POLICIES AND ANNUAL REPORTS.—The Commission shall—

"(A) review payment policies under this title, including the topics described in paragraph (2);

"(B) make recommendations to Congress concerning such payment policies; and

"(C) by not later than March 1 of each year (beginning with 1998), submit a report to Congress containing the results of such reviews and its recommendations concerning such policies and an examination of issues affecting the medicare program.

"(2) SPECIFIC TOPICS TO BE REVIEWED.—

"(A) MEDICAREPLUS PROGRAM.—Specifically, the Commission shall review, with respect to the MedicarePlus program under part C, the following:

"(i) The methodology for making payment to plans under such program, including the making of differential payments and the distribution of differential updates among different payment areas.

"(ii) The mechanisms used to adjust payments for risk and the need to adjust such mechanisms to take into account health status of beneficiaries.

"(iii) The implications of risk selection both among MedicarePlus organizations and between the MedicarePlus option and the medicare fee-for-service option.

"(iv) The development and implementation of mechanisms to assure the quality of care for those enrolled with MedicarePlus organizations.

"(v) The impact of the MedicarePlus program on access to care for medicare beneficiaries.

"(vi) The appropriate role for the medicare program in addressing the needs of individuals with chronic illnesses.

"(vii) Other major issues in implementation and further development of the MedicarePlus program.

"(B) FEE-FOR-SERVICE SYSTEM.—Specifically, the Commission shall review payment policies under parts A and B, including—

"(i) the factors affecting expenditures for services in different sectors, including the process for updating hospital, skilled nursing facility, physician, and other fees,

"(ii) payment methodologies, and

"(iii) their relationship to access and quality of care for medicare beneficiaries.

"(C) INTERACTION OF MEDICARE PAYMENT POLICIES WITH HEALTH CARE DELIVERY GENERALLY.—Specifically, the Commission shall review the effect of payment policies under this title on the delivery of health care services other than under this title and assess the implications of changes in health care delivery in the United States and in the general market for health care services on the medicare program.

"(3) COMMENTS ON CERTAIN SECRETARIAL REPORTS.—If the Secretary submits to Congress (or a committee of Congress) a report that is required by law and that relates to payment policies under this title, the Secretary shall transmit a copy of the report to the Commission. The Commission shall review the report and, not later than 6 months after the date of submittal of the Secretary's report to Congress, shall submit to the appropriate committees of Congress written comments on such report. Such comments may include such recommendations as the Commission deems appropriate.

"(4) AGENDA AND ADDITIONAL REVIEWS.—The Commission shall consult periodically with the chairmen and ranking minority members of the appropriate committees of Congress regarding the Commission's agenda and progress towards achieving the agenda. The Commission may conduct additional reviews, and submit additional reports to the appropriate committees of Congress, from time to time on such topics relating to the program under this title as may be requested by such chairmen and members and as the Commission deems appropriate.

"(5) AVAILABILITY OF REPORTS.—The Commission shall transmit to the Secretary a copy of each report submitted under this subsection and shall make such reports available to the public.

"(6) APPROPRIATE COMMITTEES.—For purposes of this section, the term 'appropriate committees of Congress' means the Committees on Ways and Means and Commerce of the House of Representatives and the Committee on Finance of the Senate.

"(c) MEMBERSHIP.—

"(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 11 members appointed by the Comptroller General.

"(2) QUALIFICATIONS.—

"(A) IN GENERAL.—The membership of the Commission shall include individuals with national recognition for their expertise in health finance and economics, actuarial science, health facility management, health plans and integrated delivery systems, reimbursement of health facilities, allopathic and osteopathic physicians, and other providers of health services, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives.

"(B) INCLUSION.—The membership of the Commission shall include (but not be limited to) physicians and other health professionals, employers, third party payers, individuals skilled in the conduct and interpretation of biomedical, health services, and health economics research and expertise in outcomes and effectiveness research and technology assessment. Such membership shall also include representatives of consumers and the elderly.

"(C) MAJORITY NONPROVIDERS.—Individuals who are directly involved in the provision, or management of the delivery, of items and services covered under this title shall not constitute a majority of the membership of the Commission.

"(D) ETHICAL DISCLOSURE.—The Comptroller General shall establish a system for public disclosure by members of the Commission of financial and other potential conflicts of interest relating to such members.

"(3) TERMS.—

"(A) IN GENERAL.—The terms of members of the Commission shall be for 3 years except that the Comptroller General shall designate staggered terms for the members first appointed.

"(B) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(4) COMPENSATION.—While serving on the business of the Commission (including traveltime), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from home and member's regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of the Commission. Physicians serving as personnel of the Commission may be provided a physician comparability allowance by the Commission in the same manner as Government physicians may be provided

such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to the Commission in the same manner as it applies to the Tennessee Valley Authority. For purposes of pay (other than pay of members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the United States Senate.

"(5) CHAIRMAN; VICE CHAIRMAN.—The Comptroller General shall designate a member of the Commission, at the time of appointment of the member, as Chairman and a member as Vice Chairman for that term of appointment.

"(6) MEETINGS.—The Commission shall meet at the call of the Chairman.

"(d) DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.—Subject to such review as the Comptroller General deems necessary to assure the efficient administration of the Commission, the Commission may—

"(1) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General) and such other personnel as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

"(2) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

"(3) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5));

"(4) make advance, progress, and other payments which relate to the work of the Commission;

"(5) provide transportation and subsistence for persons serving without compensation; and

"(6) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.

"(e) POWERS.—

"(1) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of that department or agency shall furnish that information to the Commission on an agreed upon schedule.

"(2) DATA COLLECTION.—In order to carry out its functions, the Commission shall—

"(A) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section,

"(B) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate, and

"(C) adopt procedures allowing any interested party to submit information for the Commission's use in making reports and recommendations.

"(3) ACCESS OF GAO TO INFORMATION.—The Comptroller General shall have unrestricted access to all deliberations, records, and nonproprietary data of the Commission, immediately upon request.

"(4) PERIODIC AUDIT.—The Commission shall be subject to periodic audit by the Comptroller General.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) REQUEST FOR APPROPRIATIONS.—The Commission shall submit requests for appropriations in the same manner as the Comptroller General submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Comptroller General.

"(2) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. 60 percent of such appropriation shall be payable from the Federal Hospital Insurance Trust Fund, and 40 percent of such appropriation shall be payable from the Federal Supplementary Medical Insurance Trust Fund.".

(b) ABOLITION OF PROPAC AND PPRC.—

(1) PROPAC.—

(A) IN GENERAL.—Section 1886(e) (42 U.S.C. 1395ww(e)) is amended—

(i) by striking paragraphs (2) and (6); and

(ii) in paragraph (3), by striking "(A) The Commission" and all that follows through "(B)".

(B) CONFORMING AMENDMENT.—Section 1862 (42 U.S.C. 1395y) is amended by striking "Prospective Payment Assessment Commission" each place it appears in subsection (a)(1)(D) and subsection (i) and inserting "Medicare Payment Advisory Commission".

(2) PPRC.—

(A) IN GENERAL.—Title XVIII is amended by striking section 1845 (42 U.S.C. 1395w–1).

(B) ELIMINATION OF CERTAIN REPORTS.—Section 1848 (42 U.S.C. 1395w–4) is amended by striking subparagraph (B) of subsection (f)(1).

(C) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w–4) is amended by striking "Physician Payment Review Commission" and inserting "Medicare Payment Advisory Commission" each place it appears in subsections (c)(2)(B)(iii), (g)(6)(C), and (g)(7)(C).

(c) EFFECTIVE DATE; TRANSITION.—

(1) IN GENERAL.—The Comptroller General shall first provide for appointment of members to the Medicare Payment Advisory Commission (in this subsection referred to as "MedPAC") by not later than September 30, 1997.

(2) TRANSITION.—As quickly as possible after the date a majority of members of MedPAC are first appointed, the Comptroller General, in consultation with the Prospective Payment Assessment Commission (in this subsection referred to as "ProPAC") and the Physician Payment Review Commission (in this subsection referred to as "PPRC"), shall provide for the termination of the ProPAC and the PPRC. As of the date of termination of the respective Commissions, the amendments made by paragraphs (1) and (2), respectively, of subsection (b) become effective. The Comptroller General, to the extent feasible, shall provide for the transfer to the MedPAC of assets and staff of the ProPAC and the PPRC, without any loss of benefits or seniority by virtue of such transfers. Fund balances available to the ProPAC or the PPRC for any period shall be available to the MedPAC for such period for like purposes.

(3) CONTINUING RESPONSIBILITY FOR REPORTS.—The MedPAC shall be responsible for the preparation and submission of reports required by law to be submitted (and which have not been submitted by the date of establishment of the MedPAC) by the ProPAC and the PPRC, and, for this purpose, any reference in law to either such Commission is deemed, after the appointment of the MedPAC, to refer to the MedPAC.

CHAPTER 4—MEDIGAP PROTECTIONS

SEC. 4031. MEDIGAP PROTECTIONS.

(a) GUARANTEEING ISSUE WITHOUT PREEXISTING CONDITIONS FOR CONTINUOUSLY COVERED INDIVIDUALS.—Section 1882(s) (42 U.S.C. 1395ss(s)) is amended—

(1) in paragraph (3), by striking "paragraphs (1) and (2)" and inserting "this subsection",

(2) by redesignating paragraph (3) as paragraph (4), and

(3) by inserting after paragraph (2) the following new paragraph:

"(3)(A) The issuer of a medicare supplemental policy—

"(i) may not deny or condition the issuance or effectiveness of a medicare supplemental policy described in subparagraph (C) that is offered and is available for issuance to new enrollees by such issuer;

"(ii) may not discriminate in the pricing of such policy, because of health status, claims experience, receipt of health care, or medical condition; and

"(iii) may not impose an exclusion of benefits based on a pre-existing condition under such policy,

in the case of an individual described in subparagraph (B) who seeks to enroll under the policy not later than 63 days after the date of the termination of enrollment described in such subparagraph and who submits evidence of the date of termination or disenrollment along with the application for such medicare supplemental policy.

"(B) An individual described in this subparagraph is an individual described in any of the following clauses:

"(i) The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under this title and the plan terminates or ceases to provide all such supplemental health benefits to the individual.

"(ii) The individual is enrolled with a MedicarePlus organization under a MedicarePlus plan under part C, and there are circumstances permitting discontinuance of the individual's election of the plan under section 1851(e)(4).

"(iii) The individual is enrolled with an eligible organization under a contract under section 1876, a similar organization operating under demonstration project authority, with an organization under an agreement under section 1833(a)(1)(A), or with an organization under a policy described in subsection (t), and such enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under section 1851(e)(4) and, in the case of a policy described in subsection (t), there is no provision under applicable State law for the continuation of coverage under such policy.

"(iv) The individual is enrolled under a medicare supplemental policy under this section and such enrollment ceases because—

"(I) of the bankruptcy or insolvency of the issuer or because of other involuntary termination of coverage or enrollment under such policy and there is no provision under applicable State law for the continuation of such coverage;

"(II) the issuer of the policy substantially violated a material provision of the policy; or

"(III) the issuer (or an agent or other entity acting on the issuer's behalf) materially misrepresented the policy's provisions in marketing the policy to the individual.

"(v) The individual—

"(I) was enrolled under a medicare supplemental policy under this section,

"(II) subsequently terminates such enrollment and enrolls, for the first time, with any MedicarePlus organization under a MedicarePlus plan under part C, any eligible organization under a contract under section

1876, any similar organization operating under demonstration project authority, any organization under an agreement under section 1833(a)(1)(A), or any policy described in subsection (t), and

"(III) the subsequent enrollment under subclause (II) is terminated by the enrollee during the first 6 months (or 3 months for terminations occurring on or after January 1, 2003) of such enrollment.

"(vi) The individual—

"(I) was enrolled under a medicare supplemental policy under this section,

"(II) subsequently terminates such enrollment and enrolls, for the first time, during or after the annual, coordinated election period under section 1851(e)(3)(B) occurring during 2002, with an organization or policy described in clause (v)(II), and

"(III) the subsequent enrollment under subclause (II) is terminated by the enrollee during the next annual, coordinated election period under such section.

"(C)(i) Subject to clauses (ii) and (iii), a medicare supplemental policy described in this subparagraph has a benefit package classified as 'A', 'B', 'C', or 'F' under the standards established under subsection (p)(2).

"(ii) Only for purposes of an individual described in subparagraph (B)(v), a medicare supplemental policy described in this subparagraph also includes (if available from the same issuer) the same medicare supplemental policy referred to in such subparagraph in which the individual was most recently previously enrolled.

"(iii) For purposes of applying this paragraph in the case of a State that provides for offering of benefit packages other than under the classification referred to in clause (i), the references to benefit packages in such clause are deemed references to comparable benefit packages offered in such State.

"(D) At the time of an event described in subparagraph (B) because of which an individual ceases enrollment or loses coverage or benefits under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, the insurer offering the policy, or the administrator of the plan, respectively, shall notify the individual of the rights of the individual, and obligations of issuers of medicare supplemental policies, under subparagraph (A).".

(b) LIMITATION ON IMPOSITION OF PREEXISTING CONDITION EXCLUSION DURING INITIAL OPEN ENROLLMENT PERIOD.—Section 1882(s)(2) (42 U.S.C. 1395ss(s)(2)) is amended—

(1) in subparagraph (B), by striking "subparagraph (C)" and inserting "subparagraphs (C) and (D)", and

(2) by adding at the end the following new subparagraph:

"(D) In the case of a policy issued during the 6-month period described in subparagraph (A) to an individual who is 65 years of age or older as of the date of issuance and who as of the date of the application for enrollment has a continuous period of creditable coverage (as defined in 2701(c) of the Public Health Service Act) of—

"(i) at least 6 months, the policy may not exclude benefits based on a pre-existing condition; or

"(ii) of less than 6 months, if the policy excludes benefits based on a preexisting condition, the policy shall reduce the period of any preexisting condition exclusion by the aggregate of the periods of creditable coverage (if any, as so defined) applicable to the individual as of the enrollment date.

The Secretary shall specify the manner of the reduction under clause (ii), based upon the rules used by the Secretary in carrying out section 2701(a)(3) of such Act.".

(c) EFFECTIVE DATES.—

(1) GUARANTEED ISSUE.—The amendment made by subsection (a) shall take effect on July 1, 1998.

(2) LIMIT ON PREEXISTING CONDITION EXCLUSIONS.—The amendment made by subsection (b) shall apply to policies issued on or after July 1, 1998.

(d) TRANSITION PROVISIONS.—

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC STANDARDS.—If, within 9 months after the date of the enactment of this Act, the National Association of Insurance Commissioners (in this subsection referred to as the "NAIC") modifies its NAIC Model Regulation relating to section 1882 of the Social Security Act (referred to in such section as the 1991 NAIC Model Regulation, as modified pursuant to section 171(m)(2) of the Social Security Act Amendments of 1994 (Public Law 103–432) and as modified pursuant to section 1882(d)(3)(A)(vi)(IV) of the Social Security Act, as added by section 271(a) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191) to conform to the amendments made by this section, such revised regulation incorporating the modifications shall be considered to be the applicable NAIC model regulation (including the revised NAIC model regulation and the 1991 NAIC Model Regulation) for the purposes of such section.

(3) SECRETARY STANDARDS.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall make the modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the appropriate Regulation for the purposes of such section.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) 1 year after the date the NAIC or the Secretary first makes the modifications under paragraph (2) or (3), respectively.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 1999 in a legislative session in which such legislation may be considered, the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after July 1, 1999. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 4032. MEDICARE PREPAID COMPETITIVE PRICING DEMONSTRATION PROJECT.

(a) ESTABLISHMENT OF PROJECT.—The Secretary of Health and Human Services shall provide, beginning not later than 1 year after the date of the enactment of this Act, for implementation of a project (in this section referred to as the "project") to demonstrate the application of, and the consequences of applying, a market-oriented pricing system for the provision of a full range of medicare benefits in a geographic area.

(b) RESEARCH DESIGN ADVISORY COMMITTEE.—

(1) IN GENERAL.—Before implementing the project under this section, the Secretary shall appoint a national advisory committee, including independent actuaries and individuals with expertise in competitive health plan pricing, to make recommendations to the Secretary concerning the appropriate research design for implementing the project.

(2) INITIAL RECOMMENDATIONS.—The committee initially shall submit recommendations respecting the method for area selection, benefit design among plans offered, structuring choice among health plans offered, methods for setting the price to be paid to plans, collection of plan information (including information concerning quality and access to care), information dissemination, and methods of evaluating the results of the project.

(3) ADVICE DURING IMPLEMENTATION.—Upon implementation of the project, the committee shall continue to advise the Secretary on the application of the design in different areas and changes in the project based on experience with its operations.

(c) AREA SELECTION.—

(1) IN GENERAL.—Taking into account the recommendations of the advisory committee submitted under subsection (b), the Secretary shall designate areas in which the project will operate.

(2) APPOINTMENT OF AREA ADVISORY COMMITTEE.—Upon the designation of an area for inclusion in the project, the Secretary shall appoint an area advisory committee, composed of representatives of health plans, providers, and medicare beneficiaries in the area, to advise the Secretary concerning how the project will actually be implemented in the area. Such advice may include advice concerning the marketing and pricing of plans in the area and other salient factors relating.

(d) MONITORING AND REPORT.—

(1) MONITORING IMPACT.—Taking into consideration the recommendations of the general advisory committee (appointed under subsection (b)), the Secretary shall closely monitor the impact of projects in areas on the price and quality of, and access to, medicare covered services, choice of health plan, changes in enrollment, and other relevant factors.

(2) REPORT.—The Secretary shall periodically report to Congress on the progress under the project under this section.

(e) WAIVER AUTHORITY.—The Secretary of Health and Human Services may waive such requirements of section 1876 (and such requirements of part C of title XVIII, as amended by chapter 1), of the Social Security Act as may be necessary for the purposes of carrying out the project.

(f) RELATIONSHIP TO OTHER AUTHORITY.—Except pursuant to this section the Secretary of Health and Human Services may not conduct or continue any medicare demonstration project relating to payment of health maintenance organizations, MedicarePlus organizations, or similar prepaid managed care entities on the basis of a

competitive bidding process or pricing system described in subsection (a) rather than on the bases described in section 1853 or 1876 of the Social Security Act.

Subtitle B—Prevention Initiatives

SEC. 4101. SCREENING MAMMOGRAPHY.

(a) PROVIDING ANNUAL SCREENING MAMMOGRAPHY FOR WOMEN OVER AGE 39.—Section 1834(c)(2)(A) (42 U.S.C. 1395m(c)(2)(A)) is amended—

(1) in clause (iii), to read as follows:

"(iii) In the case of a woman over 39 years of age, payment may not be made under this part for screening mammography performed within 11 months following the month in which a previous screening mammography was performed."; and

(2) by striking clauses (iv) and (v).

(b) WAIVER OF DEDUCTIBLE.—The first sentence of section 1833(b) (42 U.S.C. 1395l(b)) is amended—

(1) by striking "and" before "(4)", and

(2) by inserting before the period at the end the following: ", and (5) such deductible shall not apply with respect to screening mammography (as described in section 1861(jj))".

(c) CONFORMING AMENDMENT.—Section 1834(c)(1)(C) of such Act (42 U.S.C. 1395m(c)(1)(C)) is amended by striking ", subject to the deductible established under section 1833(b),".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

SEC. 4102. SCREENING PAP SMEAR AND PELVIC EXAMS.

(a) COVERAGE OF PELVIC EXAM; INCREASING FREQUENCY OF COVERAGE OF PAP SMEAR.—Section 1861(nn) (42 U.S.C. 1395x(nn)) is amended—

(1) in the heading, by striking "Smear" and inserting "Smear; Screening Pelvic Exam";

(2) by inserting "or vaginal" after "cervical" each place it appears;

(3) by striking "(nn)" and inserting "(nn)(1)";

(4) by striking "3 years" and all that follows and inserting "3 years, or during the preceding year in the case of a woman described in paragraph (3)."; and

(5) by adding at the end the following new paragraphs:

"(2) The term 'screening pelvic exam' means an pelvic examination provided to a woman if the woman involved has not had such an examination during the preceding 3 years, or during the preceding year in the case of a woman described in paragraph (3), and includes a clinical breast examination.

"(3) A woman described in this paragraph is a woman who—

"(A) is of childbearing age and has not had a test described in this subsection during each of the preceding 3 years that did not indicate the presence of cervical or vaginal cancer; or

"(B) is at high risk of developing cervical or vaginal cancer (as determined pursuant to factors identified by the Secretary).".

(b) WAIVER OF DEDUCTIBLE.—The first sentence of section 1833(b) (42 U.S.C. 1395l(b)), as amended by section 4101(b), is amended—

(1) by striking "and" before "(5)", and

(2) by inserting before the period at the end the following: ", and (6) such deductible shall not apply with respect to screening pap smear and screening pelvic exam (as described in section 1861(nn))".

(c) CONFORMING AMENDMENTS.—Sections 1861(s)(14) and 1862(a)(1)(F) (42 U.S.C. 1395x(s)(14), 1395y(a)(1)(F)) are each amended by inserting "and screening pelvic exam" after "screening pap smear".

(d) PAYMENT UNDER PHYSICIAN FEE SCHEDULE.—Section 1848(j)(3)(42 U.S.C. 1395w-4(j)(3)) is amended by striking "and (4)" and inserting ", (4) and (14) (with respect to services described in section 1861(nn)(2))".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

(f) REPORT ON RESCREENING PAP SMEARS.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on the extent to which the use of supplemental computer-assisted diagnostic tests consisting of interactive automated computer-imaging of an exfoliative cytology test, in conjunction with the pap smears, improves the early detection of cervical or vaginal cancer and the costs implications for coverage of such supplemental tests under the medicare program.

SEC. 4103. PROSTATE CANCER SCREENING TESTS.

(a) COVERAGE.—Section 1861 (42 U.S.C. 1395x) is amended—

(1) in subsection (s)(2)—

(A) by striking "and" at the end of subparagraphs (N) and (O), and

(B) by inserting after subparagraph (O) the following new subparagraph:

"(P) prostate cancer screening tests (as defined in subsection (oo)); and"; and

(2) by adding at the end the following new subsection:

"Prostate Cancer Screening Tests

"(oo)(1) The term 'prostate cancer screening test' means a test that consists of any (or all) of the procedures described in paragraph (2) provided for the purpose of early detection of prostate cancer to a man over 50 years of age who has not had such a test during the preceding year.

"(2) The procedures described in this paragraph are as follows:

"(A) A digital rectal examination.

"(B) A prostate-specific antigen blood test.

"(C) For years beginning after 2001, such other procedures as the Secretary finds appropriate for the purpose of early detection of prostate cancer, taking into account changes in technology and standards of medical practice, availability, effectiveness, costs, and such other factors as the Secretary considers appropriate.".

(b) PAYMENT FOR PROSTATE-SPECIFIC ANTIGEN BLOOD TEST UNDER CLINICAL DIAGNOSTIC LABORATORY TEST FEE SCHEDULES.—Section 1833(h)(1)(A) (42 U.S.C. 1395l(h)(1)(A)) is amended by inserting after "laboratory tests" the following: "(including prostate cancer screening tests under section 1861(oo) consisting of prostate-specific antigen blood tests)".

(c) CONFORMING AMENDMENT.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (E), by striking "and" at the end,

(B) in subparagraph (F), by striking the semicolon at the end and inserting ", and",

and

(C) by adding at the end the following new subparagraph:

"(G) in the case of prostate cancer screening tests (as defined in section 1861(oo)), which are performed more frequently than is covered under such section;"; and

(2) in paragraph (7), by striking "paragraph (1)(B) or under paragraph (1)(F)" and inserting "subparagraphs (B), (F), or (G) of paragraph (1)".

(d) PAYMENT UNDER PHYSICIAN FEE SCHEDULE.—Section 1848(j)(3)(42 U.S.C. 1395w-4(j)(3)), as amended by section 4102, is amended by inserting "(2)(P) (with respect to services described in subparagraphs (A) and (C) of section 1861(oo)," after "(2)(G)"

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

SEC. 4104. COVERAGE OF COLORECTAL SCREENING.

(a) COVERAGE.—

(1) IN GENERAL.—Section 1861 (42 U.S.C. 1395x), as amended by section 4103(a), is amended—

(A) in subsection (s)(2)—

(i) by striking "and" at the end of subparagraph (P);

(ii) by adding "and" at the end of subparagraph (Q); and

(iii) by adding at the end the following new subparagraph:

"(R) colorectal cancer screening tests (as defined in subsection (pp)); and"; and

(B) by adding at the end the following new subsection:

"Colorectal Cancer Screening Tests

"(pp)(1) The term 'colorectal cancer screening test' means any of the following procedures furnished to an individual for the purpose of early detection of colorectal cancer:

"(A) Screening fecal-occult blood test.

"(B) Screening flexible sigmoidoscopy.

"(C) In the case of an individual at high risk for colorectal cancer, screening colonoscopy.

"(D) Screening barium enema, if found by the Secretary to be an appropriate alternative to screening flexible sigmoidoscopy under subparagraph (B) or screening colonoscopy under subparagraph (C).

"(E) For years beginning after 2002, such other procedures as the Secretary finds appropriate for the purpose of early detection of colorectal cancer, taking into account changes in technology and standards of medical practice, availability, effectiveness, costs, and such other factors as the Secretary considers appropriate.

"(2) In paragraph (1)(C), an 'individual at high risk for colorectal cancer' is an individual who, because of family history, prior experience of cancer or precursor neoplastic polyps, a history of chronic digestive disease condition (including inflammatory bowel disease, Crohn's Disease, or ulcerative colitis), the presence of any appropriate recognized gene markers for colorectal cancer, or other predisposing factors, faces a high risk for colorectal cancer.".

(2) DEADLINE FOR DECISION ON COVERAGE OF SCREENING BARIUM ENEMA.—Not later than 2 years after the date of the enactment of this section, the Secretary of Health and Human Services shall issue and publish a determination on the treatment of screening barium enema as a colorectal cancer screening test under section 1861(pp) (as added by subparagraph (B)) as an alternative procedure to a screening flexible sigmoidoscopy or screening colonoscopy.

(b) FREQUENCY AND PAYMENT LIMITS.—

(1) IN GENERAL.—Section 1834 (42 U.S.C. 1395m) is amended by inserting after subsection (c) the following new subsection:

"(d) FREQUENCY AND PAYMENT LIMITS FOR COLORECTAL CANCER SCREENING TESTS.—

"(1) SCREENING FECAL-OCCULT BLOOD TESTS.—

"(A) PAYMENT LIMIT.—In establishing fee schedules under section 1833(h) with respect to colorectal cancer screening tests consisting of screening fecal-occult blood tests, except as provided by the Secretary under paragraph (4)(A), the payment amount established for tests performed—

"(i) in 1998 shall not exceed $5; and

"(ii) in a subsequent year, shall not exceed the limit on the payment amount established under this subsection for such tests for the preceding year, adjusted by the applicable adjustment under section 1833(h) for tests performed in such year.

"(B) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (4)(B), no payment may be made under this part for colorectal cancer screening test consisting of a screening fecal-occult blood test—

"(i) if the individual is under 50 years of age; or

"(ii) if the test is performed within the 11 months after a previous screening fecal-occult blood test.

"(2) SCREENING FLEXIBLE SIGMOIDOSCOPIES.—

"(A) FEE SCHEDULE.—The Secretary shall establish a payment amount under section 1848 with respect to colorectal cancer screening tests consisting of screening flexible sigmoidoscopies that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

"(B) PAYMENT LIMIT.—In the case of screening flexible sigmoidoscopy services—

"(i) the payment amount may not exceed such amount as the Secretary specifies, based upon the rates recognized under this part for diagnostic flexible sigmoidoscopy services; and

"(ii) that, in accordance with regulations, may be performed in an ambulatory surgical center and for which the Secretary permits ambulatory surgical center payments under this part and that are performed in an ambulatory surgical center or hospital outpatient department, the payment amount under this part may not exceed the lesser of (I) the payment rate that would apply to such services if they were performed in a hospital outpatient department, or (II) the payment rate that would apply to such services if they were performed in an ambulatory surgical center.

"(C) SPECIAL RULE FOR DETECTED LESIONS.—If during the course of such screening flexible sigmoidoscopy, a lesion or growth is detected which results in a biopsy or removal of the lesion or growth, payment under this part shall not be made for the screening flexible sigmoidoscopy but shall be made for the procedure classified as a flexible sigmoidoscopy with such biopsy or removal.

"(D) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (4)(B), no payment may be made under this part for a colorectal cancer screening test consisting of a screening flexible sigmoidoscopy—

"(i) if the individual is under 50 years of age; or

"(ii) if the procedure is performed within the 47 months after a previous screening flexible sigmoidoscopy.

"(3) SCREENING COLONOSCOPY FOR INDIVIDUALS AT HIGH RISK FOR COLORECTAL CANCER.—

"(A) FEE SCHEDULE.—The Secretary shall establish a payment amount under section 1848 with respect to colorectal cancer screening test consisting of a screening colonoscopy for individuals at high risk for colorectal cancer (as defined in section 1861(pp)(2)) that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

"(B) PAYMENT LIMIT.—In the case of screening colonoscopy services—

"(i) the payment amount may not exceed such amount as the Secretary specifies, based upon the rates recognized under this part for diagnostic colonoscopy services; and

"(ii) that are performed in an ambulatory surgical center or hospital outpatient department, the payment amount under this part may not exceed the lesser of (I) the payment rate that would apply to such services if they were performed in a hospital outpatient department, or (II) the payment rate that would apply to such services if they were performed in an ambulatory surgical center.

"(C) SPECIAL RULE FOR DETECTED LESIONS.—If during the course of such screening colonoscopy, a lesion or growth is detected which results in a biopsy or removal of the lesion or growth, payment under this part shall not be made for the screening colonoscopy but shall be made for the procedure classified as a colonoscopy with such biopsy or removal.

"(D) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (4)(B), no payment may be made under this part for a colorectal cancer screening test consisting of a screening colonoscopy for individuals at high risk for colorectal cancer if the procedure is performed within the 23 months after a previous screening colonoscopy.

"(4) REDUCTIONS IN PAYMENT LIMIT AND REVISION OF FREQUENCY.—

"(A) REDUCTIONS IN PAYMENT LIMIT FOR SCREENING FECAL-OCCULT BLOOD TESTS.—The Secretary shall review from time to time the appropriateness of the amount of the payment limit established for screening fecal-occult blood tests under paragraph (1)(A). The Secretary may, with respect to tests performed in a year after 2000, reduce the amount of such limit as it applies nationally or in any area to the amount that the Secretary estimates is required to assure that such tests of an appropriate quality are readily and conveniently available during the year.

"(B) REVISION OF FREQUENCY.—

"(i) REVIEW.—The Secretary shall review periodically the appropriate frequency for performing colorectal cancer screening tests based on age and such other factors as the Secretary believes to be pertinent.

"(ii) REVISION OF FREQUENCY.—The Secretary, taking into consideration the review made under clause (i), may revise from time to time the frequency with which such tests may be paid for under this subsection, but no such revision shall apply to tests performed before January 1, 2001.

"(5) LIMITING CHARGES OF NONPARTICIPATING PHYSICIANS.—

"(A) IN GENERAL.—In the case of a colorectal cancer screening test consisting of a screening flexible sigmoidoscopy or a screening colonoscopy provided to an individual at high risk for colorectal cancer for which payment may be made under this part, if a nonparticipating physician provides the procedure to an individual enrolled under this part, the physician may not charge the individual more than the limiting charge (as defined in section 1848(g)(2)).

"(B) ENFORCEMENT.—If a physician or supplier knowing and willfully imposes a charge in violation of subparagraph (A), the Secretary may apply sanctions against such physician or supplier in accordance with section 1842(j)(2).".

(2) SPECIAL RULE FOR SCREENING BARIUM ENEMA.—If the Secretary of Health and Human Services issues a determination under subsection (a)(2) that screening barium enema should be covered as a colorectal cancer screening test under section 1861(pp) (as added by subsection (a)(1)(B)), the Secretary shall establish frequency limits (including revisions of frequency limits) for such procedure consistent with the frequency limits for other colorectal cancer screening tests under section 1834(d) (as added by subsection (b)(1)), and shall establish payment limits (including limits on charges of nonparticipating physicians) for such procedure consistent with the payment limits under part B of title XVIII for diagnostic barium enema procedures.

(c) CONFORMING AMENDMENTS.—(1) Paragraphs (1)(D) and (2)(D) of section 1833(a) (42 U.S.C. 1395l(a)) are each amended by inserting "or section 1834(d)(1)" after "subsection (h)(1)".

(2) Section 1833(h)(1)(A) (42 U.S.C. 1395l(h)(1)(A)) is amended by striking "The Secretary" and inserting "Subject to paragraphs (1) and (4)(A) of section 1834(d), the Secretary".

(3) Clauses (i) and (ii) of section 1848(a)(2)(A) (42 U.S.C. 1395w-4(a)(2)(A)) are each amended by inserting after "a service" the following: "(other than a colorectal cancer screening test consisting of a screening colonoscopy provided to an individual at high risk for colorectal cancer or a screening flexible sigmoidoscopy)".

(4) Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 4103(c), is amended—

(A) in paragraph (1)—

(i) in subparagraph (F), by striking "and" at the end,

(ii) in subparagraph (G), by striking the semicolon at the end and inserting ", and", and

(iii) by adding at the end the following new subparagraph:

"(H) in the case of colorectal cancer screening tests, which are performed more frequently than is covered under section 1834(d);"; and

(B) in paragraph (7), by striking "or (G)" and inserting "(G), or (H)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

SEC. 4105. DIABETES SCREENING TESTS.

(a) COVERAGE OF DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES.—

(1) IN GENERAL.—Section 1861 (42 U.S.C. 1395x), as amended by sections 4103(a) and 4104(a), is amended—

(A) in subsection (s)(2)—

(i) by striking "and" at the end of subparagraph (Q);

(ii) by adding "and" at the end of subparagraph (R); and

(iii) by adding at the end the following new subparagraph:

"(S) diabetes outpatient self-management training services (as defined in subsection (qq)); and"; and

(B) by adding at the end the following new subsection:

"Diabetes Outpatient Self-Management Training Services

"(qq)(1) The term 'diabetes outpatient self-management training services' means educational and training services furnished to an individual with diabetes by a certified provider (as described in paragraph (2)(A)) in an outpatient setting by an individual or entity who meets the quality standards described in paragraph (2)(B), but only if the physician who is managing the individual's diabetic condition certifies that such services are needed under a comprehensive plan of care related to the individual's diabetic condition to provide the individual with necessary skills and knowledge (including skills related to the self-administration of

injectable drugs) to participate in the management of the individual's condition.

"(2) In paragraph (1)—

"(A) a 'certified provider' is a physician, or other individual or entity designated by the Secretary, that, in addition to providing diabetes outpatient self-management training services, provides other items or services for which payment may be made under this title; and

"(B) a physician, or such other individual or entity, meets the quality standards described in this paragraph if the physician, or individual or entity, meets quality standards established by the Secretary, except that the physician or other individual or entity shall be deemed to have met such standards if the physician or other individual or entity meets applicable standards originally established by the National Diabetes Advisory Board and subsequently revised by organizations who participated in the establishment of standards by such Board, or is recognized by an organization that represents individuals (including individuals under this title) with diabetes as meeting standards for furnishing the services.".

(2) PAYMENT UNDER PHYSICIAN FEE SCHEDULE.—Section 1848(j)(3)(42 U.S.C. 1395w-4(j)(3)) as amended in sections 4102 and 4103, is amended by inserting "(2)(S)," before "(3),".

(3) CONSULTATION WITH ORGANIZATIONS IN ESTABLISHING PAYMENT AMOUNTS FOR SERVICES PROVIDED BY PHYSICIANS.—In establishing payment amounts under section 1848 of the Social Security Act for physicians' services consisting of diabetes outpatient self-management training services, the Secretary of Health and Human Services shall consult with appropriate organizations, including such organizations representing individuals or medicare beneficiaries with diabetes, in determining the relative value for such services under section 1848(c)(2) of such Act.

(b) BLOOD-TESTING STRIPS FOR INDIVIDUALS WITH DIABETES.—

(1) INCLUDING STRIPS AND MONITORS AS DURABLE MEDICAL EQUIPMENT.—The first sentence of section 1861(n) (42 U.S.C. 1395x(n)) is amended by inserting before the semicolon the following: ", and includes blood-testing strips and blood glucose monitors for individuals with diabetes without regard to whether the individual has Type I or Type II diabetes or to the individual's use of insulin (as determined under standards established by the Secretary in consultation with the appropriate organizations)".

(2) 10 PERCENT REDUCTION IN PAYMENTS FOR TESTING STRIPS.—Section 1834(a)(2)(B)(iv) (42 U.S.C. 1395m(a)(2)(B)(iv)) is amended by adding before the period the following: "(reduced by 10 percent, in the case of a blood glucose testing strip furnished after 1997 for an individual with diabetes)".

(c) ESTABLISHMENT OF OUTCOME MEASURES FOR BENEFICIARIES WITH DIABETES.—

(1) IN GENERAL.—The Secretary of Health and Human Services, in consultation with appropriate organizations, shall establish outcome measures, including glysolated hemoglobin (past 90-day average blood sugar levels), for purposes of evaluating the improvement of the health status of medicare beneficiaries with diabetes mellitus.

(2) RECOMMENDATIONS FOR MODIFICATIONS TO SCREENING BENEFITS.—Taking into account information on the health status of medicare beneficiaries with diabetes mellitus as measured under the outcome measures established under subparagraph (A), the Secretary shall from time to time submit recommendations to Congress regarding modifications to the coverage of services for such beneficiaries under the medicare program.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

SEC. 4106. STANDARDIZATION OF MEDICARE COVERAGE OF BONE MASS MEASUREMENTS.

(a) IN GENERAL.—Section 1861 (42 U.S.C. 1395x), as amended by sections 4103(a), 4104(a), 4105(a), is amended—

(1) in subsection (s)—

(A) in paragraph (12)(C), by striking "and" at the end,

(B) by striking the period at the end of paragraph (14) and inserting "; and",

(C) by redesignating paragraphs (15) and (16) as paragraphs (16) and (17), respectively, and

(D) by inserting after paragraph (14) the following new paragraph:

"(15) bone mass measurement (as defined in subsection (rr)).''; and

(2) by inserting after subsection (qq) the following new subsection:

"Bone Mass Measurement

"(rr)(1) The term 'bone mass measurement' means a radiologic or radioisotopic procedure or other procedure approved by the Food and Drug Administration performed on a qualified individual (as defined in paragraph (2)) for the purpose of identifying bone mass or detecting bone loss or determining bone quality, and includes a physician's interpretation of the results of the procedure.

"(2) For purposes of this subsection, the term 'qualified individual' means an individual who is (in accordance with regulations prescribed by the Secretary)—

"(A) an estrogen-deficient woman at clinical risk for osteoporosis;

"(B) an individual with vertebral abnormalities;

"(C) an individual receiving long-term glucocorticoid steroid therapy;

"(D) an individual with primary hyperparathyroidism; or

"(E) an individual being monitored to assess the response to or efficacy of an approved osteoporosis drug therapy.

"(3) The Secretary shall establish such standards regarding the frequency with which a qualified individual shall be eligible to be provided benefits for bone mass measurement under this title.".

(b) PAYMENT UNDER PHYSICIAN FEE SCHEDULE.—Section 1848(j)(3) (42 U.S.C. 1395w-4(j)(3)), as amended by sections 4102, 4103, and 4105, is amended—

(1) by striking "(4) and (14)" and inserting "(4), (14)" and

(2) by inserting " and (15)" after "1861(nn)(2))".

(c) CONFORMING AMENDMENTS.—Sections 1864(a), 1902(a)(9)(C), and 1915(a)(1)(B)(ii)(I) (42 U.S.C. 1395aa(a), 1396a(a)(9)(C), and 1396n(a)(1)(B)(ii)(I)) are amended by striking "paragraphs (15) and (16)" each place it appears and inserting "paragraphs (16) and (17)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to bone mass measurements performed on or after July 1, 1998.

SEC. 4107. VACCINES OUTREACH EXPANSION.

(a) EXTENSION OF INFLUENZA AND PNEUMOCOCCAL VACCINATION CAMPAIGN.—In order to increase utilization of pneumococcal and influenza vaccines in medicare beneficiaries, the Influenza and Pneumococcal Vaccination Campaign carried out by the Health Care Financing Administration in conjunction with the Centers for Disease Control and Prevention and the National Coalition for Adult Immunization, is extended until the end of fiscal year 2002.

(b) APPROPRIATION.—There are hereby appropriated for each of fiscal years 1998 through 2002, $8,000,000 to the Campaign described in subsection (a). Of the amount of such appropriation in each fiscal year, 60 percent of such appropriation shall be payable from the Federal Hospital Insurance Trust Fund, and 40 percent shall be payable from the Federal Supplementary Medical Insurance Trust Fund under title XVIII of the Social Security Act (42 U.S.C. 1395i, 1395t).

SEC. 4108. STUDY ON PREVENTIVE BENEFITS.

(a) STUDY.—The Secretary of Health and Human Services shall request the National Academy of Sciences, in conjunction with the United States Preventive Services Task Force, to analyze the expansion or modification of preventive benefits provided to medicare beneficiaries under title XVIII of the Social Security Act. The analysis shall consider both the short term and long term benefits, and costs to the medicare program, of such expansion or modification.

(b) REPORT.—

(1) INITIAL REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report on the findings of the analysis conducted under subsection (a) to the Committee on Ways and Means and the Committee on Commerce of the House of Representatives and the Committee on Finance of the Senate.

(2) CONTENTS.—Such report shall include specific findings with respect to coverage of the following preventive benefits:

(A) Nutrition therapy, including parenteral and enteral nutrition.

(B) Skin cancer screening.

(C) Medically necessary dental care.

(D) Routine patient care costs for beneficiaries enrolled in approved clinical trial programs.

(E) Elimination of time limitation for coverage of immunosuppressive drugs for transplant patients.

(3) FUNDING.—From funds appropriated to the Department of Health and Human Services for fiscal years 1998 and 1999, the Secretary shall provide for such funding as may be necessary for the conduct of the analysis by the National Academy of Sciences under this section.

Subtitle C—Rural Initiatives

SEC. 4206. INFORMATICS, TELEMEDICINE, AND EDUCATION DEMONSTRATION PROJECT.

(a) PURPOSE AND AUTHORIZATION.—

(1) IN GENERAL.—Not later than 9 months after the date of enactment of this section, the Secretary of Health and Human Services shall provide for a demonstration project described in paragraph (2).

(2) DESCRIPTION OF PROJECT.—

(A) IN GENERAL.—The demonstration project described in this paragraph is a single demonstration project to use eligible health care provider telemedicine networks to apply high-capacity computing and advanced networks to improve primary care (and prevent health care complications) to medicare beneficiaries with diabetes mellitus who are residents of medically underserved rural areas or residents of medically underserved inner-city areas.

(B) MEDICALLY UNDERSERVED DEFINED.—As used in this paragraph, the term "medically underserved" has the meaning given such term in section 330(b)(3) of the Public Health Service Act (42 U.S.C. 254b(b)(3)).

(3) WAIVER.—The Secretary shall waive such provisions of title XVIII of the Social Security Act as may be necessary to provide for payment for services under the project in accordance with subsection (d).

(4) DURATION OF PROJECT.—The project shall be conducted over a 4-year period.

(b) OBJECTIVES OF PROJECT.—The objectives of the project include the following:

(1) Improving patient access to and compliance with appropriate care guidelines for individuals with diabetes mellitus through direct telecommunications link with information networks in order to improve patient quality-of-life and reduce overall health care costs.

(2) Developing a curriculum to train, and providing standards for credentialing and licensure of, health professionals (particularly primary care health professionals) in the use of medical informatics and telecommunications.

(3) Demonstrating the application of advanced technologies, such as video-conferencing from a patient's home, remote monitoring of a patient's medical condition, interventional informatics, and applying individualized, automated care guidelines, to assist primary care providers in assisting patients with diabetes in a home setting.

(4) Application of medical informatics to residents with limited English language skills.

(5) Developing standards in the application of telemedicine and medical informatics.

(6) Developing a model for the cost-effective delivery of primary and related care both in a managed care environment and in a fee-for-service environment.

(c) ELIGIBLE HEALTH CARE PROVIDER TELEMEDICINE NETWORK DEFINED.—For purposes of this section, the term "eligible health care provider telemedicine network" means a consortium that includes at least one tertiary care hospital (but no more than 2 such hospitals), at least one medical school, no more than 4 facilities in rural or urban areas, and at least one regional telecommunications provider and that meets the following requirements:

(1) The consortium is located in an area with one of the highest concentrations of medical schools and tertiary care facilities in the United States and has appropriate arrangements (within or outside the consortium) with such schools and facilities, universities, and telecommunications providers, in order to conduct the project.

(2) The consortium submits to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the use to which the consortium would apply any amounts received under the project and the source and amount of non-Federal funds used in the project.

(3) The consortium guarantees that it will be responsible for payment for all costs of the project that are not paid under this section and that the maximum amount of payment that may be made to the consortium under this section shall not exceed the amount specified in subsection (d)(3).

(d) COVERAGE AS MEDICARE PART B SERVICES.—

(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, services related to the treatment or management of (including prevention of complications from) diabetes for medicare beneficiaries furnished under the project shall be considered to be services covered under part B of title XVIII of the Social Security Act.

(2) PAYMENTS.—

(A) IN GENERAL.—Subject to paragraph (3), payment for such services shall be made at a rate of 50 percent of the costs that are reasonable and related to the provision of such services. In computing such costs, the Secretary shall include costs described in subparagraph (B), but may not include costs described in subparagraph (C).

(B) COSTS THAT MAY BE INCLUDED.—The costs described in this subparagraph are the permissible costs (as recognized by the Secretary) for the following:

(i) The acquisition of telemedicine equipment for use in patients' homes (but only in the case of patients located in medically underserved areas).

(ii) Curriculum development and training of health professionals in medical informatics and telemedicine.

(iii) Payment of telecommunications costs (including salaries and maintenance of equipment), including costs of telecommunications between patients' homes and the eligible network and between the network and other entities under the arrangements described in subsection (c)(1).

(iv) Payments to practitioners and providers under the medicare programs.

(C) COSTS NOT INCLUDED.—The costs described in this subparagraph are costs for any of the following:

(i) The purchase or installation of transmission equipment (other than such equipment used by health professionals to deliver medical informatics services under the project).

(ii) The establishment or operation of a telecommunications common carrier network.

(iii) Construction (except for minor renovations related to the installation of reimbursable equipment) or the acquisition or building of real property.

(3) LIMITATION.—The total amount of the payments that may be made under this section shall not exceed $30,000,000.

(4) LIMITATION ON COST-SHARING.—The project may not impose cost sharing on a medicare beneficiary for the receipt of services under the project in excess of 20 percent of the recognized costs of the project attributable to such services.

(e) REPORTS.—The Secretary shall submit to the Committees on Ways and Means and Commerce of the House of Representatives and the Committee on Finance of the Senate interim reports on the project and a final report on the project within 6 months after the conclusion of the project. The final report shall include an evaluation of the impact of the use of telemedicine and medical informatics on improving access of medicare beneficiaries to health care services, on reducing the costs of such services, and on improving the quality of life of such beneficiaries.

(f) DEFINITIONS.—For purposes of this section:

(1) INTERVENTIONAL INFORMATICS.—The term "interventional informatics" means using information technology and virtual reality technology to intervene in patient care.

(2) MEDICAL INFORMATICS.—The term "medical informatics" means the storage, retrieval, and use of biomedical and related information for problem solving and decision-making through computing and communications technologies.

(3) PROJECT.—The term "project" means the demonstration project under this section.

Subtitle D—Anti-Fraud and Abuse Provisions

SEC. 4301. PERMANENT EXCLUSION FOR THOSE CONVICTED OF 3 HEALTH CARE RELATED CRIMES.

Section 1128(c)(3) (42 U.S.C. 1320a-7(c)(3)) is amended—

(1) in subparagraph (A), by inserting "or in the case described in subparagraph (G)" after "subsection (b)(12)";

(2) in subparagraphs (B) and (D), by striking "In the case" and inserting "Subject to subparagraph (G), in the case"; and

(3) by adding at the end the following new subparagraph:

"(G) In the case of an exclusion of an individual under subsection (a) based on a conviction occurring on or after the date of the enactment of this subparagraph, if the individual has (before, on, or after such date and before the date of the conviction for which the exclusion is imposed) been convicted—

"(i) on one previous occasion of one or more offenses for which an exclusion may be effected under such subsection, the period of the exclusion shall be not less than 10 years, or

"(ii) on 2 or more previous occasions of one or more offenses for which an exclusion may be effected under such subsection, the period of the exclusion shall be permanent.".

SEC. 4302. AUTHORITY TO REFUSE TO ENTER INTO MEDICARE AGREEMENTS WITH INDIVIDUALS OR ENTITIES CONVICTED OF FELONIES.

(a) MEDICARE PART A.—Section 1866(b)(2) (42 U.S.C. 1395cc(b)(2)) is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting ", or"; and

(3) by adding after subparagraph (C) the following new subparagraph:

"(D) has ascertained that the provider has been convicted of a felony under Federal or State law for an offense which the Secretary determines is inconsistent with the best interests of program beneficiaries.".

(b) MEDICARE PART B.—Section 1842 (42 U.S.C. 1395u) is amended by adding after subsection (r) the following new subsection:

"(s) The Secretary may refuse to enter into an agreement with a physician or supplier under subsection (h) or may terminate or refuse to renew such agreement, in the event that such physician or supplier has been convicted of a felony under Federal or State law for an offense which the Secretary determines is inconsistent with the best interests of program beneficiaries.".

(c) MEDICAID.—Section 1902(a)(23) (42 U.S.C. 1396(a)) is amended—

(1) by relocating the matter that precedes "provide that, (A)" immediately before the semicolon;

(2) by inserting a semicolon after "1915";

(3) by striking the comma after "Guam" and inserting a semicolon; and

(4) by inserting before the semicolon at the end the following: "and except that this provision does not require a State to provide medical assistance for such services furnished by a person or entity convicted of a felony under Federal or State law for an offense which the State agency determines is inconsistent with the best interests of beneficiaries under the State plan".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and apply to the entry and renewal of contracts on or after such date.

SEC. 4303. INCLUSION OF TOLL-FREE NUMBER TO REPORT MEDICARE WASTE, FRAUD, AND ABUSE IN EXPLANATION OF BENEFITS FORMS.

(a) IN GENERAL.—Section 1842(h)(7) (42 U.S.C. 1395u(h)(7)) is amended—

(1) by striking "and" at the end of subparagraph (D),

(2) by striking the period at the end of subparagraph (E), and

(3) by adding at the end the following new subparagraph:

"(E) a toll-free telephone number maintained by the Inspector General in the Department of Health and Human Services for the receipt of complaints and information about waste, fraud, and abuse in the provision or billing of services under this title.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to explanations of benefits provided on or after such date (not later than January 1, 1999) as the Secretary of Health and Human Services shall provide.

SEC. 4304. LIABILITY OF MEDICARE CARRIERS AND FISCAL INTERMEDIARIES FOR CLAIMS SUBMITTED BY EXCLUDED PROVIDERS.

(a) REIMBURSEMENT TO THE SECRETARY FOR AMOUNTS PAID TO EXCLUDED PROVIDERS.—

(1) REQUIREMENTS FOR FISCAL INTERMEDIARIES.—

(A) IN GENERAL.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

"(m) An agreement with an agency or organization under this section shall require that such agency or organization reimburse the Secretary for any amounts paid by the agency or organization for a service under this title which is furnished, directed, or prescribed by an individual or entity during any period for which the individual or entity is excluded pursuant to section 1128, 1128A, or 1156, from participation in the program under this title, if the amounts are paid after the Secretary notifies the agency or organization of the exclusion.".

(B) CONFORMING AMENDMENT.—Subsection (i) of such section is amended by adding at the end the following new paragraph:

"(4) Nothing in this subsection shall be construed to prohibit reimbursement by an agency or organization under subsection (m).".

(2) REQUIREMENTS FOR CARRIERS.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(A) by striking "and" at the end of subparagraph (I); and

(B) by inserting after subparagraph (I) the following new subparagraph:

"(J) will reimburse the Secretary for any amounts paid by the carrier for an item or service under this part which is furnished, directed, or prescribed by an individual or entity during any period for which the individual or entity is excluded pursuant to section 1128, 1128A, or 1156, from participation in the program under this title, if the amounts are paid after the Secretary notifies the carrier of the exclusion, and".

(3) MEDICAID PROVISION.—Section 1902(a)(39) (42 U.S.C. 1396a(a)(39)) is amended by inserting before the semicolon at the end the following: ", and provide further for reimbursement to the Secretary of any payments made under the plan or any item or service furnished, directed, or prescribed by the excluded individual or entity during such period, after the Secretary notifies the State of such exclusion".

(b) CONFORMING REPEAL OF MANDATORY PAYMENT RULE.—Paragraph (2) of section 1862(e) (42 U.S.C. 1395y(e)) is amended to read as follows:

"(2) No individual or entity may bill (or collect any amount from) any individual for any item or service for which payment is denied under paragraph (1). No person is liable for payment of any amounts billed for such an item or service in violation of the previous sentence.".

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to contracts and agreements entered into, renewed, or extended after the date of the enactment of this Act, but only with respect to claims submitted on or after the later of January 1, 1998, or the date such entry, renewal, or extension becomes effective.

SEC. 4305. EXCLUSION OF ENTITY CONTROLLED BY FAMILY MEMBER OF A SANCTIONED INDIVIDUAL.

(a) IN GENERAL.—Section 1128 (42 U.S.C. 1320a–7) is amended—

(1) in subsection (b)(8)(A)—

(A) by striking "or" at the end of clause (i), and

(B) by striking the dash at the end of clause (ii) and inserting "; or", and

(C) by inserting after clause (ii) the following:

"(iii) who was described in clause (i) but is no longer so described because of a transfer of ownership or control interest, in anticipation of (or following) a conviction, assessment, or exclusion described in subparagraph (B) against the person, to an immediate family member (as defined in subsection (j)(1)) or a member of the household of the person (as defined in subsection (j)(2)) who continues to maintain an interest described in such clause—"; and

(2) by adding after subsection (i) the following new subsection:

"(j) DEFINITION OF IMMEDIATE FAMILY MEMBER AND MEMBER OF HOUSEHOLD.—For purposes of subsection (b)(8)(A)(iii):

"(1) The term 'immediate family member' means, with respect to a person—

"(A) the husband or wife of the person;

"(B) the natural or adoptive parent, child, or sibling of the person;

"(C) the stepparent, stepchild, stepbrother, or stepsister of the person;

"(D) the father-, mother-, daughter-, son-, brother-, or sister-in-law of the person;

"(E) the grandparent or grandchild of the person; and

"(F) the spouse of a grandparent or grandchild of the person.

"(2) The term 'member of the household' means, with respect to an person, any individual sharing a common abode as part of a single family unit with the person, including domestic employees and others who live together as a family unit, but not including a roomer or boarder.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date that is 45 days after the date of the enactment of this Act.

SEC. 4306. IMPOSITION OF CIVIL MONEY PENALTIES.

(a) CIVIL MONEY PENALTIES FOR PERSONS THAT CONTRACT WITH EXCLUDED INDIVIDUALS.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(1) by striking "or" at the end of paragraph (4);

(2) by adding "or" at the end of paragraph (5); and

(3) by adding after paragraph (5) the following new paragraph:

"(6) arranges or contracts (by employment or otherwise) with an individual or entity that the person knows or should know is excluded from participation in a Federal health care program (as defined in section 1128B(f)), for the provision of items or services for which payment may be made under such a program;".

(b) EFFECTIVE DATES.—The amendments made by subsection (a) shall apply to arrangements and contracts entered into after the date of the enactment of this Act.

SEC. 4307. DISCLOSURE OF INFORMATION AND SURETY BONDS.

(a) DISCLOSURE OF INFORMATION AND SURETY BOND REQUIREMENT FOR SUPPLIERS OF DURABLE MEDICAL EQUIPMENT.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by inserting after paragraph (15) the following new paragraph:

"(16) CONDITIONS FOR ISSUANCE OF PROVIDER NUMBER.—The Secretary shall not provide for the issuance (or renewal) of a provider number for a supplier of durable medical equipment, for purposes of payment under this part for durable medical equipment furnished by the supplier, unless the supplier provides the Secretary on a continuing basis with—

"(A)(i) full and complete information as to the identity of each person with an ownership or control interest (as defined in section 1124(a)(3)) in the supplier or in any subcontractor (as defined by the Secretary in regulations) in which the supplier directly or indirectly has a 5 percent or more ownership interest, and

"(ii) to the extent determined to be feasible under regulations of the Secretary, the name of any disclosing entity (as defined in section 1124(a)(2)) with respect to which a person with such an ownership or control interest in the supplier is a person with such an ownership or control interest in the disclosing entity; and

"(B) a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000.

The Secretary may waive the requirement of a bond under subparagraph (B) in the case of a supplier that provides a comparable surety bond under State law.".

(b) SURETY BOND REQUIREMENT FOR HOME HEALTH AGENCIES.—

(1) IN GENERAL.—Section 1861(o) (42 U.S.C. 1395x(o)) is amended—

(A) in paragraph (7), by inserting "and including providing the Secretary on a continuing basis with a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000," after "financial security of the program", and

(B) by adding at the end the following: "The Secretary may waive the requirement of a bond under paragraph (7) in the case of an agency or organization that provides a comparable surety bond under State law.".

(2) CONFORMING AMENDMENTS.—Section 1861(v)(1)(H) (42 U.S.C. 1395x(v)(1)(H)) is amended—

(A) in clause (i), by striking "the financial security requirement" and inserting "the financial security and surety bond requirements"; and

(B) in clause (ii), by striking "the financial security requirement described in subsection (o)(7) applies" and inserting "the financial security and surety bond requirements described in subsection (o)(7) apply".

(3) REFERENCE TO CURRENT DISCLOSURE REQUIREMENT.—For provision of current law requiring home health agencies to disclose information on ownership and control interests, see section 1124 of the Social Security Act.

(c) AUTHORIZING APPLICATION OF DISCLOSURE AND SURETY BOND REQUIREMENTS TO AMBULANCE SERVICES AND CERTAIN CLINICS.—Section 1834(a)(16) (42 U.S.C. 1395m(a)(16)), as

added by subsection (a), is amended by adding at the end the following: "The Secretary, in the Secretary's discretion, may impose the requirements of the previous sentence with respect to some or all classes of suppliers of ambulance services described in section 1861(s)(7) and clinics that furnish medical and other health services (other than physicians' services) under this part.".

(d) APPLICATION TO COMPREHENSIVE OUTPATIENT REHABILITATION FACILITIES (CORFS).—Section 1861(cc)(2) (42 U.S.C. 1395x(cc)(2)) is amended—

(1) in subparagraph (I), by inserting before the period at the end the following: "and providing the Secretary on a continuing basis with a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000", and

(2) by adding after and below subparagraph (I) the following:

"The Secretary may waive the requirement of a bond under subparagraph (I) in the case of a facility that provides a comparable surety bond under State law.".

(e) APPLICATION TO REHABILITATION AGENCIES.—Section 1861(p) (42 U.S.C. 1395x(p)) is amended—

(1) in paragraph (4)(A)(v), by inserting after "as the Secretary may find necessary," the following: "and provides the Secretary, to the extent required by the Secretary, on a continuing basis with a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000", and

(2) by adding at the end the following: "The Secretary may waive the requirement of a bond under paragraph (4)(A)(v) in the case of a clinic or agency that provides a comparable surety bond under State law.".

(f) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall apply to suppliers of durable medical equipment with respect to such equipment furnished on or after January 1, 1998.

(2) The amendments made by subsection (b) shall apply to home health agencies with respect to services furnished on or after such date. The Secretary of Health and Human Services shall modify participation agreements under section 1866(a)(1) of the Social Security Act with respect to home health agencies to provide for implementation of such amendments on a timely basis.

(3) The amendments made by subsections (c) through (e) shall take effect on the date of the enactment of this Act and may be applied with respect to items and services furnished on or after the date specified in paragraph (1).

SEC. 4308. PROVISION OF CERTAIN IDENTIFICATION NUMBERS.

(a) REQUIREMENTS TO DISCLOSE EMPLOYER IDENTIFICATION NUMBERS (EINS) AND SOCIAL SECURITY ACCOUNT NUMBERS (SSNS).—Section 1124(a)(1) (42 U.S.C. 1320a-3(a)(1)) is amended by inserting before the period at the end the following: "and supply the Secretary with the both the employer identification number (assigned pursuant to section 6109 of the Internal Revenue Code of 1986) and social security account number (assigned under section 205(c)(2)(B)) of the disclosing entity, each person with an ownership or control interest (as defined in subsection (a)(3)), and any subcontractor in which the entity directly or indirectly has a 5 percent or more ownership interest. Use of the social security account number under this section shall be limited to identity verification and identity matching purposes only. The social security account number shall not be disclosed to any person or entity other than the Secretary, the Social Security Administration, or the Secretary of the Treasury. In obtaining the social security account numbers of the disclosing entity and other persons described in this section, the Secretary shall comply with section 7 of the Privacy Act of 1974 (5 U.S.C. 552a note)".

(b) OTHER MEDICARE PROVIDERS.—Section 1124A (42 U.S.C. 1320a-3a) is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(3) including the employer identification number (assigned pursuant to section 6109 of the Internal Revenue Code of 1986) and social security account number (assigned under section 205(c)(2)(B)) of the disclosing part B provider and any person, managing employee, or other entity identified or described under paragraph (1) or (2).."; and

(2) in subsection (c) by inserting "(or, for purposes of subsection (a)(3), any entity receiving payment)" after "on an assignment-related basis".

(c) VERIFICATION BY SOCIAL SECURITY ADMINISTRATION (SSA).—Section 1124A (42 U.S.C. 1320a-3a) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) VERIFICATION.—

"(1) TRANSMITTAL BY HHS.—The Secretary shall transmit—

"(A) to the Commissioner of Social Security information concerning each social security account number (assigned under section 205(c)(2)(B)), and

"(B) to the Secretary of the Treasury information concerning each employer identification number (assigned pursuant to section 6109 of the Internal Revenue Code of 1986),

supplied to the Secretary pursuant to subsection (a)(3) or section 1124(c) to the extent necessary for verification of such information in accordance with paragraph (2).

"(2) VERIFICATION.—The Commissioner of Social Security and the Secretary of the Treasury shall verify the accuracy of, or correct, the information supplied by the Secretary to such official pursuant to paragraph (1), and shall report such verifications or corrections to the Secretary.

"(3) FEES FOR VERIFICATION.—The Secretary shall reimburse the Commissioner and Secretary of the Treasury, at a rate negotiated between the Secretary and such official, for the costs incurred by such official in performing the verification and correction services described in this subsection.".

(d) REPORT.—Before this subsection shall be effective, the Secretary of Health and Human Services shall submit to Congress a report on steps the Secretary has taken to assure the confidentiality of social security account numbers that will be provided to the Secretary under the amendments made by this section. If Congress determines that the Secretary has not taken adequate steps to assure the confidentiality of social security account numbers to be provided to the Secretary under the amendments made by this section, the amendments made by this section shall not take effect.

(e) EFFECTIVE DATES.—Subject to subsection (d)—

(1) the amendment made by subsection (a) shall apply to the application of conditions of participation, and entering into and renewal of contracts and agreements, occurring more than 90 days after the date of submission of the report under subsection (d); and

(2) the amendments made by subsection (b) shall apply to payment for items and services furnished more than 90 days after the date of submission of such report.

SEC. 4309. ADVISORY OPINIONS REGARDING CERTAIN PHYSICIAN SELF-REFERRAL PROVISIONS.

Section 1877(g) (42 U.S.C. 1395nn(g)) is amended by adding at the end the following new paragraph:

"(6) ADVISORY OPINIONS.—

"(A) IN GENERAL.—The Secretary shall issue written advisory opinions concerning whether a referral relating to designated health services (other than clinical laboratory services) is prohibited under this section.

"(B) BINDING AS TO SECRETARY AND PARTIES INVOLVED.—Each advisory opinion issued by the Secretary shall be binding as to the Secretary and the party or parties requesting the opinion.

"(C) APPLICATION OF CERTAIN PROCEDURES.—The Secretary shall, to the extent practicable, apply the regulations promulgated under section 1128D(b)(5) to the issuance of advisory opinions under this paragraph.

"(D) APPLICABILITY.—This paragraph shall apply to requests for advisory opinions made during the period described in section 1128D(b)(6).".

SEC. 4310. NONDISCRIMINATION IN POST-HOSPITAL REFERRAL TO HOME HEALTH AGENCIES.

(a) NOTIFICATION OF AVAILABILITY OF HOME HEALTH AGENCIES AS PART OF DISCHARGE PLANNING PROCESS.—Section 1861(ee)(2) (42 U.S.C. 1395x(ee)(2)) is amended—

(1) in subparagraph (D), by inserting before the period the following: ", including the availability of home health services through individuals and entities that participate in the program under this title and that serve the area in which the patient resides and that request to be listed by the hospital as available"; and

(2) by adding at the end the following:

"(H) Consistent with section 1802, the discharge plan shall—

"(i) not specify or otherwise limit the qualified provider which may provide post-hospital home health services, and

"(ii) identify (in a form and manner specified by the Secretary) any home health agency (to whom the individual is referred) in which the hospital has a disclosable financial interest (as specified by the Secretary consistent with section 1866(a)(1)(R)) or which has such an interest in the hospital.".

(b) MAINTENANCE AND DISCLOSURE OF INFORMATION ON POST-HOSPITAL HOME HEALTH AGENCIES.—Section 1866(a)(1) (42 U.S.C. 1395cc(a)(1)) is amended—

(1) by striking "and" at the end of subparagraph (Q),

(2) by striking the period at the end of subparagraph (R), and

(3) by adding at the end the following:

"(S) in the case of a hospital that has a financial interest (as specified by the Secretary in regulations) in a home health agency, or in which such an agency has such a financial interest, or in which another entity has such a financial interest (directly or indirectly) with such hospital and such an agency, to maintain and disclose to the Secretary (in a form and manner specified by the Secretary) information on—

"(i) the nature of such financial interest,

"(ii) the number of individuals who were discharged from the hospital and who were

identified as requiring home health services, and

"(iii) the percentage of such individuals who received such services from such provider (or another such provider).".

(c) DISCLOSURE OF INFORMATION TO THE PUBLIC.—Title XI is amended by inserting after section 1145 the following new section:

"PUBLIC DISCLOSURE OF CERTAIN INFORMATION ON HOSPITAL FINANCIAL INTEREST AND REFERRAL PATTERNS

"SEC. 1146. The Secretary shall make available to the public, in a form and manner specified by the Secretary, information disclosed to the Secretary pursuant to section 1866(a)(1)(R).".

(d) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply to discharges occurring on or after 90 days after the date of the enactment of this Act.

(2) The Secretary of Health and Human Services shall issue regulations by not later than 1 year after the date of the enactment of this Act to carry out the amendments made by subsections (b) and (c) and such amendments shall take effect as of such date (on or after the issuance of such regulations) as the Secretary specifies in such regulations.

SEC. 4311. OTHER FRAUD AND ABUSE RELATED PROVISIONS.

(a) REFERENCE CORRECTION.—(1) Section 1128D(b)(2)(D) (42 U.S.C. 1320a–7d(b)(2)(D)), as added by section 205 of the Health Insurance Portability and Accountability Act of 1996, is amended by striking "1128B(b)" and inserting "1128A(b)".

(2) Section 1128E(g)(3)(C) (42 U.S.C. 1320a–7e(g)(3)(C)) is amended by striking "Veterans' Administration" and inserting "Department of Veterans Affairs".

(b) LANGUAGE IN DEFINITION OF CONVICTION.—Section 1128E(g)(5) (42 U.S.C. 1320a–7e(g)(5)), as inserted by section 221(a) of the Health Insurance Portability and Accountability Act of 1996, is amended by striking "paragraph (4)" and inserting "paragraphs (1) through (4)".

(c) IMPLEMENTATION OF EXCLUSIONS.—Section 1128 (42 U.S.C. 1320a–7) is amended—

(1) in subsection (a), by striking "any program under title XVIII and shall direct that the following individuals and entities be excluded from participation in any State health care program (as defined in subsection (h))" and inserting "any Federal health care program (as defined in section 1128B(f))"; and

(2) in subsection (b), by striking "any program under title XVIII and may direct that the following individuals and entities be excluded from participation in any State health care program" and inserting "any Federal health care program (as defined in section 1128B(f))".

(d) SANCTIONS FOR FAILURE TO REPORT.—Section 1128E(b) (42 U.S.C. 1320a–7e(b)), as inserted by section 221(a) of the Health Insurance Portability and Accountability Act of 1996, is amended by adding at the end the following:

"(6) SANCTIONS FOR FAILURE TO REPORT.—

"(A) HEALTH PLANS.—Any health plan that fails to report information on an adverse action required to be reported under this subsection shall be subject to a civil money penalty of not more than $25,000 for each such adverse action not reported. Such penalty shall be imposed and collected in the same manner as civil money penalties under subsection (a) of section 1128A are imposed and collected under that section.

"(B) GOVERNMENTAL AGENCIES.—The Secretary shall provide for a publication of a public report that identifies those Government agencies that have failed to report information on adverse actions as required to be reported under this subsection.".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall be effective as if included in the enactment of the Health Insurance Portability and Accountability Act of 1996.

(2) FEDERAL HEALTH PROGRAM.—The amendments made by subsection (c) shall take effect on the date of the enactment of this Act.

(3) SANCTION FOR FAILURE TO REPORT.—The amendment made by subsection (d) shall apply to failures occurring on or after the date of the enactment of this Act.

Subtitle E—Prospective Payment Systems

CHAPTER 2—PAYMENT UNDER PART B

Subchapter A—Payment for Hospital Outpatient Department Services

SEC. 4411. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS (FDO) FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.

(a) ELIMINATION OF FDO FOR AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(b) ELIMINATION OF FDO FOR RADIOLOGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1833(n)(1)(B)(i) (42 U.S.C. 1395l(n)(1)(B)(i)) is amended—

(1) by striking "of 80 percent", and

(2) by inserting before the period at the end the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished during portions of cost reporting periods occurring on or after October 1, 1997.

SEC. 4412. EXTENSION OF REDUCTIONS IN PAYMENTS FOR COSTS OF HOSPITAL OUTPATIENT SERVICES.

(a) REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS.—Section 1861(v)(1)(S)(ii)(I) (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by striking "through 1998" and inserting "through 1999 and during fiscal year 2000 before January 1, 2000".

(b) REDUCTION IN PAYMENTS FOR OTHER COSTS.—Section 1861(v)(1)(S)(ii)(II) (42 U.S.C. 1395x(v)(1)(S)(ii)(II)) is amended by striking "through 1998" and inserting "through 1999 and during fiscal year 2000 before January 1, 2000".

SEC. 4413. PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES.

(a) IN GENERAL.—Section 1833 (42 U.S.C. 1395l) is amended by adding at the end the following:

"(t) PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES.—

"(1) IN GENERAL.—With respect to hospital outpatient services designated by the Secretary (in this section referred to as 'covered OPD services') and furnished during a year beginning with 1999, the amount of payment under this part shall be determined under a prospective payment system established by the Secretary in accordance with this subsection.

"(2) SYSTEM REQUIREMENTS.—Under the payment system—

"(A) the Secretary shall develop a classification system for covered OPD services;

"(B) the Secretary may establish groups of covered OPD services, within the classification system described in subparagraph (A), so that services classified within each group are comparable clinically and with respect to the use of resources;

"(C) the Secretary shall, using data on claims from 1996 and using data from the most recent available cost reports, establish relative payment weights for covered OPD services (and any groups of such services described in subparagraph (B)) based on median hospital costs and shall determine projections of the frequency of utilization of each such service (or group of services) in 1999;

"(D) the Secretary shall determine a wage adjustment factor to adjust the portion of payment and coinsurance attributable to labor-related costs for relative differences in labor and labor-related costs across geographic regions in a budget neutral manner;

"(E) the Secretary shall establish other adjustments, in a budget neutral manner, as determined to be necessary to ensure equitable payments, such as outlier adjustments, adjustments to account for variations in coinsurance payments for procedures with similar resource costs, or adjustments for certain classes of hospitals; and

"(F) the Secretary shall develop a method for controlling unnecessary increases in the volume of covered OPD services.

"(3) CALCULATION OF BASE AMOUNTS.—

"(A) AGGREGATE AMOUNTS THAT WOULD BE PAYABLE IF DEDUCTIBLES WERE DISREGARDED.—The Secretary shall estimate the total amounts that would be payable from the Trust Fund under this part for covered OPD services in 1999, determined without regard to this subsection, as though the deductible under section 1833(b) did not apply, and as though the coinsurance described in section 1866(a)(2)(A)(ii) (as in effect before the date of the enactment of this subsection) continued to apply.

"(B) UNADJUSTED COPAYMENT AMOUNT.—

"(i) IN GENERAL.—For purposes of this subsection, subject to clause (ii), the 'unadjusted copayment amount' applicable to a covered OPD service (or group of such services) is 20 percent of national median of the charges for the service (or services within the group) furnished during 1996, updated to 1999 using the Secretary's estimate of charge growth during the period.

"(ii) ADJUSTED TO BE 20 PERCENT WHEN FULLY PHASED IN.—If the pre-deductible payment percentage for a covered OPD service (or group of such services) furnished in a year would be equal to or exceed 80 percent, then the unadjusted copayment amount shall be 25 percent of amount determined under subparagraph (D)(i).

"(iii) RULES FOR NEW SERVICES.—The Secretary shall establish rules for establishment of an unadjusted copayment amount for a covered OPD service not furnished during 1996, based upon its classification within a group of such services.

"(C) CALCULATION OF CONVERSION FACTORS.—

"(I) IN GENERAL.—The Secretary shall establish a 1999 conversion factor for determining the medicare pre-deductible OPD fee payment amounts for each covered OPD service (or group of such services) furnished in 1999. Such conversion factor shall be established on the basis of the weights and frequencies described in paragraph (2)(C) and in a manner such that the sum for all services and groups of the products (described in subclause (II) for each such service or group) equals the total projected amount described in subparagraph (A).

"(II) PRODUCT DESCRIBED.—The product described in this subclause, for a service or group, is the product of the medicare pre-deductible OPD fee payment amounts (taking into account appropriate adjustments described in paragraphs (2)(D) and (2)(E)) and the frequencies for such service or group.

"(ii) SUBSEQUENT YEARS.—Subject to paragraph (8)(B), the Secretary shall establish a conversion factor for covered OPD services furnished in subsequent years in an amount equal to the conversion factor established under this subparagraph and applicable to such services furnished in the previous year increased by the OPD payment increase factor specified under clause (iii) for the year involved.

"(iii) OPD PAYMENT INCREASE FACTOR.—For purposes of this subparagraph, the 'OPD payment increase factor' for services furnished in a year is equal to the sum of—

"(I) market basket percentage increase (applicable under section 1886(b)(3)(B)(iii) to hospital discharges occurring during the fiscal year ending in such year, and

"(II) in the case of a covered OPD service (or group of such services) furnished in a year in which the pre-deductible payment percentage would not exceed 80 percent, 3.5 percentage points, but in no case greater than such number of percentage points as will result in the pre-deductible payment percentage exceeding 80 percent.

In applying the previous sentence for years beginning with 2000, the Secretary may substitute for the market basket percentage increase under subclause (I) an annual percentage increase that is computed and applied with respect to covered OPD services furnished in a year in the same manner as the market basket percentage increase is determined and applied to inpatient hospital services for discharges occurring in a fiscal year.

"(D) PRE-DEDUCTIBLE PAYMENT PERCENTAGE.—The pre-deductible payment percentage for a covered OPD service (or group of such services) furnished in a year is equal to the ratio of—

"(i) the conversion factor established under subparagraph (C) for the year, multiplied by the weighting factor established under paragraph (2)(C) for the service (or group), to

"(ii) the sum of the amount determined under clause (i) and the unadjusted copayment amount determined under subparagraph (B) for such service or group.

"(E) CALCULATION OF MEDICARE OPD FEE SCHEDULE AMOUNTS.—The Secretary shall compute a medicare OPD fee schedule amount for each covered OPD service (or group of such services) furnished in a year, in an amount equal to the product of—

"(i) the conversion factor computed under subparagraph (C) for the year, and

"(ii) the relative payment weight (determined under paragraph (2)(C)) for the service or group.

"(4) MEDICARE PAYMENT AMOUNT.—The amount of payment made from the Trust Fund under this part for a covered OPD service (and such services classified within a group) furnished in a year is determined as follows:

"(A) FEE SCHEDULE AND COPAYMENT AMOUNT.—Add (i) the medicare OPD fee schedule amount (computed under paragraph (3)(E)) for the service or group and year, and (ii) the unadjusted copayment amount (determined under paragraph (3)(B)) for the service or group.

"(B) SUBTRACT APPLICABLE DEDUCTIBLE.—Reduce the adjusted sum by the amount of the deductible under section 1833(b), to the extent applicable.

"(C) APPLY PAYMENT PROPORTION TO REMAINDER.—Multiply the amount so determined under subparagraph (B) by the pre-deductible payment percentage (as determined under paragraph (3)(D)) for the service or group and year involved.

"(D) LABOR-RELATED ADJUSTMENT.—The amount of payment is the product determined under subparagraph (C) with the labor-related portion of such product adjusted for relative differences in the cost of labor and other factors determined by the Secretary, as computed under paragraph (2)(D).

"(5) COPAYMENT AMOUNT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the copayment amount under this subsection is determined as follows:

"(i) UNADJUSTED COPAYMENT.—Compute the amount by which the amount described in paragraph (4)(B) exceeds the amount of payment determined under paragraph (4)(C).

"(ii) LABOR ADJUSTMENT.—The copayment amount is the difference determined under clause (i) with the labor-related portion of such difference adjusted for relative differences in the cost of labor and other factors determined by the Secretary, as computed under paragraphs (2)(D). The adjustment under this clause shall be made in a manner that does not result in any change in the aggregate copayments made in any year if the adjustment had not been made.

"(B) ELECTION TO OFFER REDUCED COPAYMENT AMOUNT.—The Secretary shall establish a procedure under which a hospital, before the beginning of a year (beginning with 1999), may elect to reduce the copayment amount otherwise established under subparagraph (A) for some or all covered OPD services to an amount that is not less than 25 percent of the medicare OPD fee schedule amount (computed under paragraph (3)(E)) for the service involved, adjusted for relative differences in the cost of labor and other factors determined by the Secretary, as computed under subparagraphs (D) and (E) of paragraph (2). Under such procedures, such reduced copayment amount may not be further reduced or increased during the year involved and the hospital may disseminate information on the reduction of copayment amount effected under this subparagraph.

"(C) NO IMPACT ON DEDUCTIBLES.—Nothing in this paragraph shall be construed as affecting a hospital's authority to waive the charging of a deductible under section 1833(b).

"(6) PERIODIC REVIEW AND ADJUSTMENTS COMPONENTS OF PROSPECTIVE PAYMENT SYSTEM.—

"(A) PERIODIC REVIEW.—The Secretary may periodically review and revise the groups, the relative payment weights, and the wage and other adjustments described in paragraph (2) to take into account changes in medical practice, changes in technology, the addition of new services, new cost data, and other relevant information and factors.

"(B) BUDGET NEUTRALITY ADJUSTMENT.—If the Secretary makes adjustments under subparagraph (A), then the adjustments for a year may not cause the estimated amount of expenditures under this part for the year to increase or decrease from the estimated amount of expenditures under this part that would have been made if the adjustments had not been made.

"(C) UPDATE FACTOR.—If the Secretary determines under methodologies described in subparagraph (2)(F) that the volume of services paid for under this subsection increased beyond amounts established through those methodologies, the Secretary may appropriately adjust the update to the conversion factor otherwise applicable in a subsequent year.

"(7) SPECIAL RULE FOR AMBULANCE SERVICES.—The Secretary shall pay for hospital outpatient services that are ambulance services on the basis described in the matter in subsection (a)(1) preceding subparagraph (A).

"(8) SPECIAL RULES FOR CERTAIN HOSPITALS.—In the case of hospitals described in section 1886(d)(1)(B)(v)—

"(A) the system under this subsection shall not apply to covered OPD services furnished before January 1, 2000; and

"(B) the Secretary may establish a separate conversion factor for such services in a manner that specifically takes into account the unique costs incurred by such hospitals by virtue of their patient population and service intensity.

"(9) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of—

"(A) the development of the classification system under paragraph (2), including the establishment of groups and relative payment weights for covered OPD services, of wage adjustment factors, other adjustments, and methods described in paragraph (2)(F);

"(B) the calculation of base amounts under paragraph (3);

"(C) periodic adjustments made under paragraph (6); and

"(D) the establishment of a separate conversion factor under paragraph (8)(B).".

(b) COINSURANCE.—Section 1866(a)(2)(A)(ii) (42 U.S.C. 1395cc(a)(2)(A)(ii)) is amended by adding at the end the following: "In the case of items and services for which payment is made under part B under the prospective payment system established under section 1833(t), clause (ii) of the first sentence shall be applied by substituting for 20 percent of the reasonable charge, the applicable copayment amount established under section 1833(t)(5).".

(c) TREATMENT OF REDUCTION IN COPAYMENT AMOUNT.—Section 1128A(i)(6) (42 U.S.C. 1320a–7a(i)(6)) is amended—

(1) by striking "or" at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(D) a reduction in the copayment amount for covered OPD services under section 1833(t)(5)(B).".

(d) CONFORMING AMENDMENTS.—

(1) APPROVED ASC PROCEDURES PERFORMED IN HOSPITAL OUTPATIENT DEPARTMENTS.—

(A)(i) Section 1833(i)(3)(A) (42 U.S.C. 13951(i)(3)(A)) is amended—

(I) by inserting "before January 1, 1999," after "furnished", and

(II) by striking "in a cost reporting period".

(ii) The amendment made by clause (i) shall apply to services furnished on or after January 1, 1999.

(B) Section 1833(a)(4) (42 U.S.C. 13951(a)(4)) is amended by inserting "or subsection (t)" before the semicolon.

(2) RADIOLOGY AND OTHER DIAGNOSTIC PROCEDURES.—

(A) Section 1833(n)(1)(A) (42 U.S.C. 13951(n)(1)(A)) is amended by inserting "and before January 1, 1999," after "October 1, 1988," and after "October 1, 1989,".

(B) Section 1833(a)(2)(E) (42 U.S.C. 13951(a)(2)(E)) is amended by inserting "or,

for services or procedures performed on or after January 1, 1999, (t)" before the semicolon.

(3) OTHER HOSPITAL OUTPATIENT SERVICES.—Section -1833(a)(2)(B) (42 U.S.C. 1395l(a)(2)(B)) is amended—

(A) in clause (i), by inserting "furnished before January 1, 1999," after "(i)",

(B) in clause (ii), by inserting "before January 1, 1999," after "furnished",

(C) by redesignating clause (iii) as clause (iv),and

(D) by inserting after clause (ii), the following new clause:

"(iii) if such services are furnished on or after January 1, 1999, the amount determined under subsection (t), or".

Subchapter B—Rehabilitation Services

SEC. 4421. REHABILITATION AGENCIES AND SERVICES.

(a) PAYMENT BASED ON FEE SCHEDULE.—

(1) SPECIAL PAYMENT RULES.—Section 1833(a) (42 U.S.C. 1395l(a)) is amended—

(A) in paragraph (2) in the matter before subparagraph (A), by inserting "(C)," before "(D)";

(B) in paragraph (6), by striking "and" at the end;

(C) in paragraph (7), by striking the period at the end and inserting "; and";

(D) by adding at the end the following new paragraph:

"(8) in the case of services described in section 1832(a)(2)(C) (that are not described in section 1832(a)(2)(B)), the amounts described in section 1834(k).".

(2) PAYMENT RATES.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(k) PAYMENT FOR OUTPATIENT THERAPY SERVICES.—

"(1) IN GENERAL.—With respect to outpatient physical therapy services (which includes outpatient speech-language pathology services) and outpatient occupational therapy services for which payment is determined under this subsection, the payment basis shall be—

"(A) for services furnished during 1998, the amount determined under paragraph (2); or

"(B) for services furnished during a subsequent year, 80 percent of the lesser of—

"(i) the actual charge for the services, or

"(ii) the applicable fee schedule amount (as defined in paragraph (3)) for the services.

"(2) PAYMENT IN 1998 BASED UPON CHARGES OR ADJUSTED REASONABLE COSTS.—The amount under this paragraph for services is the lesser of—

"(A) the charges imposed for the services, or

"(B) the adjusted reasonable costs (as defined in paragraph (4)) for the services,

less 20 percent of the amount of the charges imposed for such services.

"(3) APPLICABLE FEE SCHEDULE AMOUNT.—In this paragraph, the term 'applicable fee schedule amount' means, with respect to services furnished in a year, the fee schedule amount established under section 1848 for such services furnished during the year or, if there is no such fee schedule amount established for such services, for such comparable services as the Secretary specifies.

"(4) ADJUSTED REASONABLE COSTS.—In paragraph (2), the term 'adjusted reasonable costs' means reasonable costs determined reduced by—

"(A) 5.8 percent of the reasonable costs for operating costs, and

"(B) 10 percent of the reasonable costs for capital costs.

"(5) UNIFORM CODING.—For claims for services submitted on or after April 1, 1998, for which the amount of payment is determined under this subsection, the claim shall include a code (or codes) under a uniform coding system specified by the Secretary that identifies the services furnished.

"(6) RESTRAINT ON BILLING.—The provisions of subparagraphs (A) and (B) of section 1842(b)(18) shall apply to therapy services for which payment is made under this subsection in the same manner as they apply to services provided by a practitioner described in section 1842(b)(18)(C).".

(b) APPLICATION OF STANDARDS TO OUTPATIENT OCCUPATIONAL AND PHYSICAL THERAPY SERVICES PROVIDED AS AN INCIDENT TO A PHYSICIAN'S PROFESSIONAL SERVICES.—Section 1862(a), as amended by section 4401(b), (42 U.S.C. 1395y(a)) is amended—

(1) by striking "or" at the end of paragraph (16);

(2) by striking the period at the end of paragraph (17) and inserting "; or"; and

(3) by inserting after paragraph (17) the following:

"(18) in the case of outpatient occupational therapy services or outpatient physical therapy services furnished as an incident to a physician's professional services (as described in section 1861(s)(2)(A)), that do not meet the standards and conditions under the second sentence of section 1861(g) or 1861(p) as such standards and conditions would apply to such therapy services if furnished by a therapist.".

(c) APPLYING FINANCIAL LIMITATION TO ALL REHABILITATION SERVICES.—Section 1833(g) (42 U.S.C. 1395l(g)) is amended—

(1) in the first sentence, by striking "services described in the second sentence of section 1861(p)" and inserting "physical therapy services of the type described in section 1861(p) (regardless of who furnishes the services or whether the services may be covered as physicians' services so long as the services are furnished other than in a hospital setting)", and

(2) in the second sentence, by striking "outpatient occupational therapy services which are described in the second sentence of section 1861(p) through the operation of section 1861(g)" and inserting "occupational therapy services (of the type that are described in section 1861(p) through the operation of section 1861(g)), regardless of who furnishes the services or whether the services may be covered as physicians' services so long as the services are furnished other than in a hospital setting".

(d) EFFECTIVE DATE.—The amendments made by this section apply to services furnished on or after January 1, 1998; except that the amendments made by subsection (c) apply to services furnished on or after January 1, 1999.

SEC. 4422. COMPREHENSIVE OUTPATIENT REHABILITATION FACILITIES (CORF).

(a) PAYMENT BASED ON FEE SCHEDULE.—

(1) SPECIAL PAYMENT RULES.—Section 1833(a) (42 U.S.C. 1395l(a)), as amended by section 4421(a), is amended—

(A) in paragraph (3), by striking "subparagraphs (D) and (E) of section 1832(a)(2)" and inserting "section 1832(a)(2)(E)";

(B) in paragraph (7), by striking "and" at the end;

(C) in paragraph (8), by striking the period at the end and inserting "; and";

(D) by adding at the end the following new paragraph:

"(9) in the case of services described in section 1832(a)(2)(E), the amounts described in section 1834(k).".

(2) PAYMENT RATES.—Section 1834(k) (42 U.S.C. 1395m(k)), as added by section 4421(a), is amended—

(A) in the heading, by inserting "AND COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY SERVICES" after "THERAPY SERVICES"; and

(B) in paragraph (1), by inserting "and with respect to comprehensive outpatient rehabilitation facility services" after "occupational therapy services".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after January 1, 1998, and to portions of cost reporting periods occurring on or after such date.

Subchapter C—Ambulance Services

SEC. 4431. PAYMENTS FOR AMBULANCE SERVICES.

(a) INTERIM REDUCTIONS.—

(1) PAYMENTS DETERMINED ON REASONABLE COST BASIS.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

"(U) In determining the reasonable cost of ambulance services (as described in subsection (s)(7)) provided during a fiscal year (beginning with fiscal year 1998 and ending with fiscal year 2002), the Secretary shall not recognize the costs per trip in excess of costs recognized as reasonable for ambulance services provided on a per trip basis during the previous fiscal year after application of this subparagraph, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with the midpoint of the fiscal year involved reduced (in the case of each of fiscal years 1998 and 1999) by 1 percentage point.".

(2) PAYMENTS DETERMINED ON REASONABLE CHARGE BASIS.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by adding at the end the following new paragraph:

"(19) For purposes of section 1833(a)(1), the reasonable charge for ambulance services (as described in section 1861(s)(7)) provided during a fiscal year (beginning with fiscal year 1998 and ending with fiscal year 2002) may not exceed the reasonable charge for such services provided during the previous fiscal year after the application of this subparagraph, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with the midpoint of the year involved reduced (in the case of each of fiscal years 1998 and 1999) by 1 percentage point.".

(b) ESTABLISHMENT OF PROSPECTIVE FEE SCHEDULE.—

(1) PAYMENT IN ACCORDANCE WITH FEE SCHEDULE.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)), as amended by section 4619(b)(1), is amended—

(A) by striking "and (P)" and inserting "(P)"; and

(B) by striking the semicolon at the end and inserting the following: ", and (Q) with respect to ambulance service, the amounts paid shall be 80 percent of the lesser of the actual charge for the services or the amount determined by a fee schedule established by the Secretary under section 1834(l);".

(2) ESTABLISHMENT OF SCHEDULE.—Section 1834 (42 U.S.C. 1395m), as amended by section 4421(a)(2), is amended by adding at the end the following new subsection:

"(l) ESTABLISHMENT OF FEE SCHEDULE FOR AMBULANCE SERVICES.—

"(1) IN GENERAL.—The Secretary shall establish a fee schedule for payment for ambulance services under this part through a negotiated rulemaking process described in title 5, United States Code, and in accordance with the requirements of this subsection.

"(2) CONSIDERATIONS.—In establishing such fee schedule the Secretary shall—

"(A) establish mechanisms to control increases in expenditures for ambulance services under this part;

"(B) establish definitions for ambulance services which link payments to the type of services provided;

"(C) consider appropriate regional and operational differences;

"(D) consider adjustments to payment rates to account for inflation and other relevant factors; and

"(E) phase in the application of the payment rates under the fee schedule in an efficient and fair manner.

"(3) SAVINGS.—In establishing such fee schedule the Secretary shall—

"(A) ensure that the aggregate amount of payments made for ambulance services under this part during 2000 does not exceed the aggregate amount of payments which would have been made for such services under this part during such year if the amendments made by section 4431 of the Balanced Budget Act of 1997 had not been made; and

"(B) set the payment amounts provided under the fee schedule for services furnished in 2001 and each subsequent year at amounts equal to the payment amounts under the fee schedule for service furnished during the previous year, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

"(4) CONSULTATION.—In establishing the fee schedule for ambulance services under this subsection, the Secretary shall consult with various national organizations representing individuals and entities who furnish and regulate ambulance services and share with such organizations relevant data in establishing such schedule.

"(5) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869 or otherwise of the amounts established under the fee schedule for ambulance services under this subsection, including matters described in paragraph (2).

"(6) RESTRAINT ON BILLING.—The provisions of subparagraphs (A) and (B) of section 1842(b)(18) shall apply to ambulance services for which payment is made under this subsection in the same manner as they apply to services provided by a practitioner described in section 1842(b)(18)(C).".

(3) EFFECTIVE DATE.—The amendments made by this section apply to ambulance services furnished on or after January 1, 2000.

(c) AUTHORIZING PAYMENT FOR PARAMEDIC INTERCEPT SERVICE PROVIDERS IN RURAL COMMUNITIES.—In promulgating regulations to carry out section 1861(s)(7) of the Social Security Act (42 U.S.C. 1395x(s)(7)) with respect to the coverage of ambulance service, the Secretary of Health and Human Services may include coverage of advanced life support services (in this subsection referred to as "ALS intercept services") provided by a paramedic intercept service provider in a rural area if the following conditions are met:

(1) The ALS intercept services are provided under a contract with one or more volunteer ambulance services and are medically necessary based on the health condition of the individual being transported.

(2) The volunteer ambulance service involved—

(A) is certified as qualified to provide ambulance service for purposes of such section,

(B) provides only basic life support services at the time of the intercept, and

(C) is prohibited by State law from billing for any services.

(3) The entity supplying the ALS intercept services—

(A) is certified as qualified to provide such services under the medicare program under title XVIII of the Social Security Act, and

(B) bills all recipients who receive ALS intercept services from the entity, regardless of whether or not such recipients are medicare beneficiaries.

SEC. 4432. DEMONSTRATION OF COVERAGE OF AMBULANCE SERVICES UNDER MEDICARE THROUGH CONTRACTS WITH UNITS OF LOCAL GOVERNMENT.

(a) DEMONSTRATION PROJECT CONTRACTS WITH LOCAL GOVERNMENTS.—The Secretary of Health and Human Services shall establish up to 3 demonstration projects under which, at the request of a county or parish, the Secretary enters into a contract with the county or parish under which—

(1) the county or parish furnishes (or arranges for the furnishing) of ambulance services for which payment may be made under part B of title XVIII of the Social Security Act for individuals residing in the county or parish who are enrolled under such part, except that the county or parish may not enter into the contract unless the contract covers at least 80 percent of the individuals residing in the county or parish who are enrolled under such part;

(2) any individual or entity furnishing ambulance services under the contract meets the requirements otherwise applicable to individuals and entities furnishing such services under such part; and

(3) for each month during which the contract is in effect, the Secretary makes a capitated payment to the county or parish in accordance with subsection (b).

The projects may extend over a period of not to exceed 3 years each.

(b) AMOUNT OF PAYMENT.—

(1) IN GENERAL.—The amount of the monthly payment made for months occurring during a calendar year to a county or parish under a demonstration project contract under subsection (a) shall be equal to the product of—

(A) the Secretary's estimate of the number of individuals covered under the contract for the month; and

(B) 1/12 of the capitated payment rate for the year established under paragraph (2).

(2) CAPITATED PAYMENT RATE DEFINED.—In this subsection, the "capitated payment rate" applicable to a contract under this subsection for a calendar year is equal to 95 percent of—

(A) for the first calendar year for which the contract is in effect, the average annual per capita payment made under part B of title XVIII of the Social Security Act with respect to ambulance services furnished to such individuals during the 3 most recent calendar years for which data on the amount of such payment is available; and

(B) for a subsequent year, the amount provided under this paragraph for the previous year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

(c) OTHER TERMS OF CONTRACT.—The Secretary and the county or parish may include in a contract under this section such other terms as the parties consider appropriate, including—

(1) covering individuals residing in additional counties or parishes (under arrangements entered into between such counties or parishes and the county or parish involved);

(2) permitting the county or parish to transport individuals to non-hospital providers if such providers are able to furnish quality services at a lower cost than hospital providers; or

(3) implementing such other innovations as the county or parish may propose to improve the quality of ambulance services and control the costs of such services.

(d) CONTRACT PAYMENTS IN LIEU OF OTHER BENEFITS.—Payments under a contract to a county or parish under this section shall be instead of the amounts which (in the absence of the contract) would otherwise be payable under part B of title XVIII of the Social Security Act for the services covered under the contract which are furnished to individuals who reside in the county or parish.

(e) REPORT ON EFFECTS OF CAPITATED CONTRACTS.—

(1) STUDY.—The Secretary shall evaluate the demonstration projects conducted under this section. Such evaluation shall include an analysis of the quality and cost-effectiveness of ambulance services furnished under the projects.

(2) REPORT.—Not later than January 1, 2000, the Secretary shall submit a report to Congress on the study conducted under paragraph (1), and shall include in the report such recommendations as the Secretary considers appropriate, including recommendations regarding modifications to the methodology used to determine the amount of payments made under such contracts and extending or expanding such projects.

CHAPTER 3—PAYMENT UNDER PARTS A AND B

SEC. 4441. PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 4011, is amended by adding at the end the following new section:

"PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES

"SEC. 1895. (a) IN GENERAL.—Notwithstanding section 1861(v), the Secretary shall provide, for cost reporting periods beginning on or after October 1, 1999, for payments for home health services in accordance with a prospective payment system established by the Secretary under this section.

"(b) SYSTEM OF PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES.—

"(1) IN GENERAL.—The Secretary shall establish under this subsection a prospective payment system for payment for all costs of home health services. Under the system under this subsection 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 this section, including medical supplies, shall be paid for on the basis of a prospective payment amount determined under this subsection and applicable to the services involved. In implementing the system, the Secretary may provide for a transition (of not longer than 4 years) during which a portion of such payment is based on agency-specific costs, but only if such transition does not result in aggregate payments under this title that exceed the aggregate payments that would be made if such a transition did not occur.

"(2) UNIT OF PAYMENT.—In defining a prospective payment amount under the system under this subsection, the Secretary shall consider an appropriate unit of service and the number, type, and duration of visits provided within that unit, potential changes in the mix of services provided within that unit and their cost, and a general system design

that provides for continued access to quality services.

"(3) PAYMENT BASIS.—

"(A) INITIAL BASIS.—

"(i) IN GENERAL.—Under such system the Secretary shall provide for computation of a standard prospective payment amount (or amounts). Such amount (or amounts) shall initially be based on the most current audited cost report data available to the Secretary and shall be computed in a manner so that the total amounts payable under the system for fiscal year 2000 shall be equal to the total amount that would have been made if the system had not been in effect but if the reduction in limits described in clause (ii) had been in effect. Such amount shall be standardized in a manner that eliminates the effect of variations in relative case mix and wage levels among different home health agencies in a budget neutral manner consistent with the case mix and wage level adjustments provided under paragraph (4)(A). Under the system, the Secretary may recognize regional differences or differences based upon whether or not the services or agency are in an urbanized area.

"(ii) REDUCTION.—The reduction described in this clause is a reduction by 15 percent in the cost limits and per beneficiary limits described in section 1861(v)(1)(L), as those limits are in effect on September 30, 1999.

"(B) ANNUAL UPDATE.—

"(i) IN GENERAL.—The standard prospective payment amount (or amounts) shall be adjusted for each fiscal year (beginning with fiscal year 2001) in a prospective manner specified by the Secretary by the home health market basket percentage increase applicable to the fiscal year involved.

"(ii) HOME HEALTH MARKET BASKET PERCENTAGE INCREASE.—For purposes of this subsection, the term 'home health market basket percentage increase' means, with respect to a fiscal year, a percentage (estimated by the Secretary before the beginning of the fiscal year) determined and applied with respect to the mix of goods and services included in home health services in the same manner as the market basket percentage increase under section 1886(b)(3)(B)(iii) is determined and applied to the mix of goods and services comprising inpatient hospital services for the fiscal year.

"(C) ADJUSTMENT FOR OUTLIERS.—The Secretary shall reduce the standard prospective payment amount (or amounts) under this paragraph applicable to home health services furnished during a period by such proportion as will result in an aggregate reduction in payments for the period equal to the aggregate increase in payments resulting from the application of paragraph (5) (relating to outliers).

"(4) PAYMENT COMPUTATION.—

"(A) IN GENERAL.—The payment amount for a unit of home health services shall be the applicable standard prospective payment amount adjusted as follows:

"(i) CASE MIX ADJUSTMENT.—The amount shall be adjusted by an appropriate case mix adjustment factor (established under subparagraph (B)).

"(ii) AREA WAGE ADJUSTMENT.—The portion of such amount that the Secretary estimates to be attributable to wages and wage-related costs shall be adjusted for geographic differences in such costs by an area wage adjustment factor (established under subparagraph (C)) for the area in which the services are furnished or such other area as the Secretary may specify.

"(B) ESTABLISHMENT OF CASE MIX ADJUSTMENT FACTORS.—The Secretary shall establish appropriate case mix adjustment factors for home health services in a manner that explains a significant amount of the variation in cost among different units of services.

"(C) ESTABLISHMENT OF AREA WAGE ADJUSTMENT FACTORS.—The Secretary shall establish area wage adjustment factors that reflect the relative level of wages and wage-related costs applicable to the furnishing of home health services in a geographic area compared to the national average applicable level. Such factors may be the factors used by the Secretary for purposes of section 1886(d)(3)(E).

"(5) OUTLIERS.—The Secretary may provide for an addition or adjustment to the payment amount otherwise made in the case of outliers because of unusual variations in the type or amount of medically necessary care. The total amount of the additional payments or payment adjustments made under this paragraph with respect to a fiscal year may not exceed 5 percent of the total payments projected or estimated to be made based on the prospective payment system under this subsection in that year.

"(6) PRORATION OF PROSPECTIVE PAYMENT AMOUNTS.—If a beneficiary elects to transfer to, or receive services from, another home health agency within the period covered by the prospective payment amount, the payment shall be prorated between the home health agencies involved.

"(c) REQUIREMENTS FOR PAYMENT INFORMATION.—With respect to home health services furnished on or after October 1, 1998, no claim for such a service may be paid under this title unless—

"(1) the claim has the unique identifier (provided under section 1842(r)) for the physician who prescribed the services or made the certification described in section 1814(a)(2) or 1835(a)(2)(A); and

"(2) in the case of a service visit described in paragraph (1), (2), (3), or (4) of section 1861(m), the claim has information (coded in an appropriate manner) on the length of time of the service visit, as measured in 15 minute increments.

"(d) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of—

"(1) the establishment of a transition period under subsection (b)(1);

"(2) the definition and application of payment units under subsection (b)(2);

"(3) the computation of initial standard prospective payment amounts under subsection (b)(3)(A) (including the reduction described in clause (ii) of such subsection);

"(4) the adjustment for outliers under subsection (b)(3)(C);

"(5) case mix and area wage adjustments under subsection (b)(4);

"(6) any adjustments for outliers under subsection (b)(5); and

"(7) the amounts or types of exceptions or adjustments under subsection (b)(7).".

(b) ELIMINATION OF PERIODIC INTERIM PAYMENTS FOR HOME HEALTH AGENCIES.—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).

(c) CONFORMING AMENDMENTS.—

(1) PAYMENTS UNDER PART A.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended in the matter preceding paragraph (1) by striking "and 1886" and inserting "1886, and 1895".

(2) TREATMENT OF ITEMS AND SERVICES PAID UNDER PART B.—

(A) PAYMENTS UNDER PART B.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(i) by amending subparagraph (A) to read as follows:

"(A) with respect to home health services (other than a covered osteoporosis drug) (as defined in section 1861(kk)), the amount determined under the prospective payment system under section 1895;";

(ii) by striking "and" at the end of subparagraph (E);

(iii) by adding "and" at the end of subparagraph (F); and

(iv) by adding at the end the following new subparagraph:

"(G) with respect to items and services described in section 1861(s)(10)(A), the lesser of—

"(i) the reasonable cost of such services, as determined under section 1861(v), or

"(ii) the customary charges with respect to such services,

or, if such services are furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this provision), free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2);".

(B) REQUIRING PAYMENT FOR ALL ITEMS AND SERVICES TO BE MADE TO AGENCY.—

(i) IN GENERAL.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)), as amended by section 4401(b)(2), is amended—

(I) by striking "and (E)" and inserting "(E)"; and

(II) by striking the period at the end and inserting the following: ", and (F) in the case of home health services furnished to an individual who (at the time the item or service is furnished) is under a plan of care of a home health agency, payment shall be made to the agency (without regard to whether or not the item or service was furnished by the agency, by others under arrangement with them made by the agency, or when any other contracting or consulting arrangement, or otherwise).".

(ii) CONFORMING AMENDMENT.—Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)), as amended by section 4401(b), is amended by striking "and section 1842(b)(6)(E)" and inserting ", section 1842(b)(6)(E), and section 1842(b)(6)(F)".

(C) EXCLUSIONS FROM COVERAGE.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by sections 4401(b) and 4421(b), is amended—

(i) by striking "or" at the end of paragraph (17);

(ii) by striking the period at the end of paragraph (18) and inserting "; or"; and

(iii) inserting after paragraph (18) the following new paragraph:

"(19) where such expenses are for home health services furnished to an individual who is under a plan of care of the home health agency if the claim for payment for such services is not submitted by the agency.".

(d) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall apply to cost reporting periods beginning on or after October 1, 1999.

Subtitle G—Provisions Relating to Part B Only

CHAPTER 1—PHYSICIANS' SERVICES

SEC. 4601. ESTABLISHMENT OF SINGLE CONVERSION FACTOR FOR 1998.

(a) IN GENERAL.—Section 1848(d)(1) (42 U.S.C. 1395w-4(d)(1)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D), and

(2) by inserting after subparagraph (B) the following:

"(C) SPECIAL RULES FOR 1998.—The single conversion factor for 1998 under this subsection shall be the conversion factor for primary care services for 1997, increased by the Secretary's estimate of the weighted average of the three separate updates that would otherwise occur were it not for the enactment of chapter 1 of subtitle G of title X of the Balanced Budget Act of 1997.".

(b) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w-4) is amended—

(1) by striking "(or factors)" each place it appears in subsection (d)(1)(A) and (d)(1)(D)(ii) (as redesignated by subsection (a)(1)),

(2) in subsection (d)(1)(A), by striking "or updates",

(3) in subsection (d)(1)(D) (as redesignated by subsection (a)(1)), by striking "(or updates)" each place it appears, and

(4) in subsection (i)(1)(C), by striking "conversion factors" and inserting "the conversion factor".

SEC. 4602. ESTABLISHING UPDATE TO CONVERSION FACTOR TO MATCH SPENDING UNDER SUSTAINABLE GROWTH RATE.

(a) UPDATE.—

(1) IN GENERAL.—Section 1848(d)(3) (42 U.S.C. 1395w-4(d)(3)) is amended to read as follows:

"(3) UPDATE.—

"(A) IN GENERAL.—Unless otherwise provided by law, subject to subparagraph (D) and the budget-neutrality factor determined by the Secretary under subsection (c)(2)(B)(ii), the update to the single conversion factor established in paragraph (1)(C) for a year beginning with 1999 is equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage increase in the MEI (as defined in section 1842(i)(3)) for the year (divided by 100), and

"(ii) 1 plus the Secretary's estimate of the update adjustment factor for the year (divided by 100),

minus 1 and multiplied by 100.

"(B) UPDATE ADJUSTMENT FACTOR.—For purposes of subparagraph (A)(ii), the 'update adjustment factor' for a year is equal to the quotient (as estimated by the Secretary) of—

"(i) the difference between (I) the sum of the allowed expenditures for physicians' services (as determined under subparagraph (C)) during the period beginning July 1, 1997, and ending on June 30 of the year involved, and (II) the sum of the amount of actual expenditures for physicians' services furnished during the period beginning July 1, 1997, and ending on June 30 of the preceding year; divided by

"(ii) the actual expenditures for physicians' services for the 12-month period ending on June 30 of the preceding year, increased by the sustainable growth rate under subsection (f) for the fiscal year which begins during such 12-month period.

"(C) DETERMINATION OF ALLOWED EXPENDITURES.—For purposes of this paragraph, the allowed expenditures for physicians' services for the 12-month period ending with June 30 of—

"(i) 1997 is equal to the actual expenditures for physicians' services furnished during such 12-month period, as estimated by the Secretary; or

"(ii) a subsequent year is equal to the allowed expenditures for physicians' services for the previous year, increased by the sustainable growth rate under subsection (f) for the fiscal year which begins during such 12-month period.

"(D) RESTRICTION ON VARIATION FROM MEDICARE ECONOMIC INDEX.—Notwithstanding the amount of the update adjustment factor determined under subparagraph (B) for a year, the update in the conversion factor under this paragraph for the year may not be—

"(i) greater than 100 times the following amount: (1.03 + (MEI percentage/100)) -1; or

"(ii) less than 100 times the following amount: (0.93 + (MEI percentage/100)) -1,

where 'MEI percentage' means the Secretary's estimate of the percentage increase in the MEI (as defined in section 1842(i)(3)) for the year involved.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to the update for years beginning with 1999.

(b) ELIMINATION OF REPORT.—Section 1848(d) (42 U.S.C. 1395w-4(d)) is amended by striking paragraph (2).

SEC. 4603. REPLACEMENT OF VOLUME PERFORMANCE STANDARD WITH SUSTAINABLE GROWTH RATE.

(a) IN GENERAL.—Section 1848(f) (42 U.S.C. 1395w-4(f)) is amended by striking paragraphs (2) through (5) and inserting the following:

"(2) SPECIFICATION OF GROWTH RATE.—The sustainable growth rate for all physicians' services for a fiscal year (beginning with fiscal year 1998) shall be equal to the product of—

"(A) 1 plus the Secretary's estimate of the weighted average percentage increase (divided by 100) in the fees for all physicians' services in the fiscal year involved,

"(B) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than MedicarePlus plan enrollees) from the previous fiscal year to the fiscal year involved,

"(C) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from the previous fiscal year to the fiscal year involved, and

"(D) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in the fiscal year (compared with the previous fiscal year) which will result from changes in law and regulations, determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services resulting from changes in the update to the conversion factor under subsection (d)(3),

minus 1 and multiplied by 100.

"(3) DEFINITIONS.—In this subsection:

"(A) SERVICES INCLUDED IN PHYSICIANS' SERVICES.—The term 'physicians' services' includes other items and services (such as clinical diagnostic laboratory tests and radiology services), specified by the Secretary, that are commonly performed or furnished by a physician or in a physician's office, but does not include services furnished to a MedicarePlus plan enrollee.

"(B) MEDICAREPLUS PLAN ENROLLEE.—The term 'MedicarePlus plan enrollee' means, with respect to a fiscal year, an individual enrolled under this part who has elected to receive benefits under this title for the fiscal year through a MedicarePlus plan offered under part C, and also includes an individual who is receiving benefits under this part through enrollment with an eligible organization with a risk-sharing contract under section 1876.".

(b) CONFORMING AMENDMENTS.—Section 1848(f) (42 U.S.C. 1395w-4(f)) is amended—

(1) in the heading, by striking "VOLUME PERFORMANCE STANDARD RATES OF INCREASE" and inserting "SUSTAINABLE GROWTH RATE"; and

(2) in paragraph (1)—

(A) in the heading, by striking "VOLUME PERFORMANCE STANDARD RATES OF INCREASE" and inserting "SUSTAINABLE GROWTH RATE",

(B) by striking subparagraphs (A) and (B); and

(C) in paragraph (1)(C)—

(i) in the heading, by striking "PERFORMANCE STANDARD RATES OF INCREASE" and inserting "SUSTAINABLE GROWTH RATE";

(ii) in the first sentence, by striking "with 1991), the performance standard rates of increase" and all that follows through the first period and inserting "with 1999), the sustainable growth rate for the fiscal year beginning in that year."; and

(iii) in the second sentence, by striking "January 1, 1990, the performance standard rate of increase under subparagraph (D) for fiscal year 1990" and inserting "January 1, 1999, the sustainable growth rate for fiscal year 1999".

SEC. 4604. PAYMENT RULES FOR ANESTHESIA SERVICES.

(a) IN GENERAL.—Section 1848(d)(1) (42 U.S.C. 1395w-4(d)(1)), as amended by section 4601, is amended—

(A) in subparagraph (C), striking "The single" and inserting "Except as provided in subparagraph (D), the single";

(B) by redesignating subparagraph (D) as subparagraph (E); and

(C) by inserting after subparagraph (C) the following new subparagraph:

"(D) SPECIAL RULES FOR ANESTHESIA SERVICES.—The separate conversion factor for anesthesia services for a year shall be equal to 46 percent of the single conversion factor established for other physicians' services, except as adjusted for changes in work, practice expense, or malpractice relative value units. ".

(b) CLASSIFICATION OF ANESTHESIA SERVICES.—The first sentence of section 1848(j)(1) (42 U.S.C. 1395w-4(j)(1)) is amended—

(1) by striking "and including anesthesia services"; and

(2) by inserting before the period the following: "(including anesthesia services)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1998.

SEC. 4605. IMPLEMENTATION OF RESOURCE-BASED PHYSICIAN PRACTICE EXPENSE.

(a) 1-YEAR DELAY IN IMPLEMENTATION.—Section 1848(c) (42 U.S.C. 1395w-4(c)) is amended—

(1) in paragraph (2)(C)(ii), in the matter before subclause (I) and after subclause (II), by striking "1998" and inserting "1999" each place it appears; and

(2) in paragraph (3)(C)(ii), by striking "1998" and inserting "1999".

(b) PHASED-IN IMPLEMENTATION.—

(1) IN GENERAL.—Section 1848(c)(2)(C)(ii) (42 U.S.C. 1395w-4(c)(2)(C)(ii)) is further amended—

(A) by striking the comma at the end of clause (ii) and inserting a period and the following:

"For 1999, such number of units shall be determined based 75 percent on such product and based 25 percent on the relative practice expense resources involved in furnishing the service. For 2000, such number of units shall be determined based 50 percent on such product and based 50 percent on such relative practice expense resources. For 2001, such number of units shall be determined based 25 percent on such product and based 75 percent on such relative practice expense resources.

For a subsequent year, such number of units shall be determined based entirely on such relative practice expense resources.".

(2) CONFORMING AMENDMENT.—Section 1848(c)(3)(C)(ii) (42 U.S.C. 1395w-4(c)(3)(C)(ii)), as amended by subsection (a)(2), is amended by striking "1999" and inserting "2002".

(c) REQUIREMENTS FOR DEVELOPING NEW RESOURCE-BASED PRACTICE EXPENSE RELATIVE VALUE UNITS.—

(1) DEVELOPMENT.—For purposes of section 1848(c)(2)(C) of the Social Security Act, the Secretary of Health and Human Services shall develop new resource-based relative value units. In developing such units the Secretary shall—

(A) utilize, to the maximum extent practicable, generally accepted accounting principles and standards which (i) recognize all staff, equipment, supplies, and expenses, not just those which can be tied to specific procedures, and (ii) use actual data on equipment utilization and other key assumptions, such as the proportion of costs which are direct versus indirect;

(B) study whether hospital cost reduction efforts and changing practice patterns may have increased physician practice costs under part B of the medicare program;

(C) consider potential adverse effects on patient access under the medicare program; and

(D) consult with organizations representing physicians regarding methodology and data to be used, including data for impact projections, in order to ensure that sufficient input has been received by the affected physician community.

(2) REPORT.—The Secretary shall transmit a report by March 1, 1998, on the development of resource-based relative value units under paragraph (1) to the Committee on Ways and Means and the Committee on Commerce of the House of Representatives and the Committee on Finance of the Senate. The report shall include a presentation of data to be used in developing the value units and an explanation of the methodology.

(3) NOTICE OF PROPOSED RULEMAKING.—The Secretary shall publish a notice of proposed rulemaking with the new resource-based relative value units on or before May 1, 1998, and shall allow for a 90-day public comment period.

(4) ITEMS INCLUDED.—The proposed new rule shall include the following:

(A) Detailed impact projections which compare new proposed payment amounts on data on actual physician practice expenses.

(B) Impact projections for specialties and subspecialties, geographic payment localities, urban versus rural localities, and academic versus nonacademic medical staffs.

(C) Impact projections on access to care for medicare patients and physician employment of clinical and administrative staff.

SEC. 4606. DISSEMINATION OF INFORMATION ON HIGH PER DISCHARGE RELATIVE VALUES FOR IN-HOSPITAL PHYSICIANS' SERVICES.

(a) DETERMINATION AND NOTICE CONCERNING HOSPITAL-SPECIFIC PER DISCHARGE RELATIVE VALUES.—

(1) IN GENERAL.—For 1999 and 2001 the Secretary of Health and Human Services shall determine for each hospital—

(A) the hospital-specific per discharge relative value under subsection (b); and

(B) whether the hospital-specific relative value is projected to be excessive (as determined based on such value represented as a percentage of the median of hospital-specific per discharge relative values determined under subsection (b)).

(2) NOTICE TO MEDICAL STAFFS AND CARRIERS.—The Secretary shall notify the medical executive committee of each hospital identifies under paragraph (1)(B) as having an excessive hospital-specific relative value, of the determinations made with respect to the medical staff under paragraph (1).

(b) DETERMINATION OF HOSPITAL-SPECIFIC PER DISCHARGE RELATIVE VALUES.—

(1) IN GENERAL.—For purposes of this section, the hospital-specific per discharge relative value for the medical staff of a hospital (other than a teaching hospital) for a year, shall be equal to the average per discharge relative value (as determined under section 1848(c)(2) of the Social Security Act) for physicians' services furnished to inpatients of the hospital by the hospital's medical staff (excluding interns and residents) during the second year preceding that calendar year, adjusted for variations in case-mix and disproportionate share status among hospitals (as determined by the Secretary under paragraph (3)).

(2) SPECIAL RULE FOR TEACHING HOSPITALS.—The hospital-specific relative value projected for a teaching hospital in a year shall be equal to the sum of—

(A) the average per discharge relative value (as determined under section 1848(c)(2) of such Act) for physicians' services furnished to inpatients of the hospital by the hospital's medical staff (excluding interns and residents) during the second year preceding that calendar year, and

(B) the equivalent per discharge relative value (as determined under such section) for physicians' services furnished to inpatients of the hospital by interns and residents of the hospital during the second year preceding that calendar year, adjusted for variations in case-mix, disproportionate share status, and teaching status among hospitals (as determined by the Secretary under paragraph (3)).

The Secretary shall determine the equivalent relative value unit per discharge for interns and residents based on the best available data and may make such adjustment in the aggregate.

(3) ADJUSTMENT FOR TEACHING AND DISPROPORTIONATE SHARE HOSPITALS.—The Secretary shall adjust the allowable per discharge relative values otherwise determined under this subsection to take into account the needs of teaching hospitals and hospitals receiving additional payments under subparagraphs (F) and (G) of section 1886(d)(5) of the Social Security Act. The adjustment for teaching status or disproportionate share shall not be less than zero.

(c) DEFINITIONS.—For purposes of this section:

(1) HOSPITAL.—The term "hospital" means a subsection (d) hospital as defined in section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)).

(2) 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 the bylaws, rules, and regulations, the individual has clinical privileges granted by the hospital's governing body, and

(iii) under the clinical privileges, the individual may provide physicians" services independently within the scope of the individual's clinical privileges, or

(B) if the physician provides at least one service to an individual entitled to benefits under this title in that hospital.

(3) PHYSICIANS' SERVICES.—The term "physicians" services" means the services described in section 1848(j)(3) of the Social Security Act (42 U.S.C. 1395w-4(j)(3)).

(4) RURAL AREA; URBAN AREA.—The terms "rural area" and "urban area" have the meaning given those terms under section 1886(d)(2)(D) of such Act (42 U.S.C. 1395ww(d)(2)(D)).

(5) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(6) TEACHING HOSPITAL.—The term "teaching hospital" means a hospital which has a teaching program approved as specified in section 1861(b)(6) of the Social Security Act (42 U.S.C. 1395x(b)(6)).

SEC. 4607. NO X-RAY REQUIRED FOR CHIROPRACTIC SERVICES.

(a) IN GENERAL.—Section 1861(r)(5) (42 U.S.C. 1395x(r)(5)) is amended by striking "demonstrated by X-ray to exist".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to services furnished on or after January 1, 1998.

(c) UTILIZATION GUIDELINES.—The Secretary of Health and Human Services shall develop and implement utilization guidelines relating to the coverage of chiropractic services under part B of title XVIII of the Social Security Act in cases in which a subluxation has not been demonstrated by X-ray to exist.

SEC. 4608. TEMPORARY COVERAGE RESTORATION FOR PORTABLE ELECTROCARDIOGRAM TRANSPORTATION.

(a) IN GENERAL.—Effective for electrocardiogram tests performed during 1998, the Secretary of Health and Human Services shall restore separate payment, under part B of title XVIII of the Social Security Act, for the transportation of electrocardiogram equipment (HCPCS code R0076) based upon the status code and relative value units established for such service as of December 31, 1996.

(b) REPORT.—By not later than July 1, 1998, the Comptroller General shall submit to Congress a report on the appropriateness of continuing such payment.

CHAPTER 2—OTHER PAYMENT PROVISIONS

SEC. 4611. PAYMENTS FOR DURABLE MEDICAL EQUIPMENT.

(a) REDUCTION IN PAYMENT AMOUNTS FOR ITEMS OF DURABLE MEDICAL EQUIPMENT.—

(1) FREEZE IN UPDATE FOR COVERED ITEMS.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

(A) by striking "and" at the end of subparagraph (A);

(B) in subparagraph (B)—

(i) by striking "a subsequent year" and inserting "1993, 1994, 1995, 1996, and 1997", and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(C) for each of the years 1998 through 2002, 0 percentage points; and

"(D) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year.".

(2) UPDATE FOR ORTHOTICS AND PROSTHETICS.—Section 1834(h)(4)(A) (42 U.S.C. 1395m(h)(4)(A)) is amended—

(A) by striking ", and" at the end of clause (iii) and inserting a semicolon;

(B) in clause (iv), by striking "a subsequent year" and inserting "1996 and 1997", and

(C) by adding at the end the following new clauses:

"(v) for each of the years 1998 through 2002, 1 percent, and

"(vi) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period ending with June of the previous year;".

(c) PAYMENT FREEZE FOR PARENTERAL AND ENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT.—In determining the amount of payment under part B of title XVIII of the Social Security Act with respect to parenteral and enteral nutrients, supplies, and equipment during each of the years 1998 through 2002, the charges determined to be reasonable with respect to such nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such nutrients, supplies, and equipment during 1995.

SEC. 4612. OXYGEN AND OXYGEN EQUIPMENT.

Section 1834(a)(9)(C) (42 U.S.C. 1395m(a)(9)(C)) is amended—

(1) by striking "and" at the end of clause (iii);

(2) in clause (iv)—

(A) by striking "a subsequent year" and inserting "1993, 1994, 1995, 1996, and 1997", and

(B) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new clauses:

"(v) in each of the years 1998 through 2002, is 80 percent of the national limited monthly payment rate computed under subparagraph (B) for the item for the year; and

"(vi) in a subsequent year, is the national limited monthly payment rate computed under subparagraph (B) for the item for the year.".

SEC. 4613. REDUCTION IN UPDATES TO PAYMENT AMOUNTS FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) CHANGE IN UPDATE.—Section 1833(h)(2)(A)(ii)(IV) (42 U.S.C. 1395l(h)(2)(A)(ii)(IV)) is amended by inserting "and 1998 through 2002" after "1995".

(b) LOWERING CAP ON PAYMENT AMOUNTS.—Section 1833(h)(4)(B) (42 U.S.C. 1395l(h)(4)(B)) is amended—

(1) in clause (vi), by striking "and" at the end;

(2) in clause (vii)—

(A) by inserting "and before January 1, 1998," after "1995,", and

(B) by striking the period at the end and inserting ", and"; and

(3) by adding at the end the following new clause:

"(viii) after December 31, 1997, is equal to 72 percent of such median.".

SEC. 4614. SIMPLIFICATION IN ADMINISTRATION OF LABORATORY TESTS.

(a) SELECTION OF REGIONAL CARRIERS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall—

(A) divide the United States into no more than 5 regions, and

(B) designate a single carrier for each such region,

for the purpose of payment of claims under part B of title XVIII of the Social Security Act with respect to clinical diagnostic laboratory tests (other than for tests performed in physician offices) furnished on or after such date (not later than January 1, 1999) as the Secretary specifies.

(2) DESIGNATION.—In designating such carriers, the Secretary shall consider, among other criteria—

(A) a carrier's timeliness, quality, and experience in claims processing, and

(B) a carrier's capacity to conduct electronic data interchange with laboratories and data matches with other carriers.

(3) SINGLE DATA RESOURCE.—The Secretary may select one of the designated carriers to serve as a central statistical resource for all claims information relating to such clinical diagnostic laboratory tests handled by all the designated carriers under such part.

(4) ALLOCATION OF CLAIMS.—The allocation of claims for clinical diagnostic laboratory tests to particular designated carriers shall be based on whether a carrier serves the geographic area where the laboratory specimen was collected or other method specified by the Secretary.

(b) ADOPTION OF UNIFORM POLICIES FOR CLINICAL LABORATORY TESTS.—

(1) IN GENERAL.—Not later than July 1, 1998, the Secretary shall first adopt, consistent with paragraph (2), uniform coverage, administration, and payment policies for clinical diagnostic laboratory tests under part B of title XVIII of the Social Security Act, using a negotiated rulemaking process under subchapter III of chapter 5 of title 5, United States Code.

(2) CONSIDERATIONS IN DESIGN OF UNIFORM POLICIES.—The policies under paragraph (1) shall be designed to promote uniformity and program integrity and reduce administrative burdens with respect to clinical diagnostic laboratory tests payable under such part in connection with the following:

(A) Beneficiary information required to be submitted with each claim or order for laboratory tests.

(B) Physicians' obligations regarding documentation requirements and recordkeeping.

(C) Procedures for filing claims and for providing remittances by electronic media.

(D) The documentation of medical necessity.

(E) Limitation on frequency of coverage for the same tests performed on the same individual.

(3) CHANGES IN CARRIER REQUIREMENTS PENDING ADOPTION OF UNIFORM POLICY.—During the period that begins on the date of the enactment of this Act and ends on the date the Secretary first implements uniform policies pursuant to regulations promulgated under this subsection, a carrier under such part may implement changes relating to requirements for the submission of a claim for clinical diagnostic laboratory tests.

(4) USE OF INTERIM REGIONAL POLICIES.—After the date the Secretary first implements such uniform policies, the Secretary shall permit any carrier to develop and implement interim policies of the type described in paragraph (1), in accordance with guidelines established by the Secretary, in cases in which a uniform national policy has not been established under this subsection and there is a demonstrated need for a policy to respond to aberrant utilization or provision of unnecessary services. Except as the Secretary specifically permits, no policy shall be implemented under this paragraph for a period of longer than 2 years.

(5) INTERIM NATIONAL POLICIES.—After the date the Secretary first designates regional carriers under subsection (a), the Secretary shall establish a process under which designated carriers can collectively develop and implement interim national standards of the type described in paragraph (1). No such policy shall be implemented under this paragraph for a period of longer than 2 years.

(6) BIENNIAL REVIEW PROCESS.—Not less often than once every 2 years, the Secretary shall solicit and review comments regarding changes in the uniform policies established under this subsection. As part of such biennial review process, the Secretary shall specifically review and consider whether to incorporate or supersede interim, regional, or national policies developed under paragraph (4) or (5). Based upon such review, the Secretary may provide for appropriate changes in the uniform policies previously adopted under this subsection.

(7) NOTICE.— Before a carrier implements a change or policy under paragraph (3), (4), or (5), the carrier shall provide for advance notice to interested parties and a 45-day period in which such parties may submit comments on the proposed change.

(c) INCLUSION OF LABORATORY REPRESENTATIVE ON CARRIER ADVISORY COMMITTEES.—The Secretary shall direct that any advisory committee established by such a carrier, to advise with respect to coverage, administration or payment policies under part B of title XVIII of the Social Security Act, shall include an individual to represent the interest and views of independent clinical laboratories and such other laboratories as the Secretary deems appropriate. Such individual shall be selected by such committee from among nominations submitted by national and local organizations that represent independent clinical laboratories.

SEC. 4615. UPDATES FOR AMBULATORY SURGICAL SERVICES.

Section 1833(i)(2)(C) (42 U.S.C. 1395l(i)(2)(C)) is amended by striking all that follows "shall be increased" and inserting the following: "as follows:

"(i) For fiscal years 1996 and 1997, by the percentage increase in the consumer price index for all urban consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with the midpoint of the year involved.

"(ii) For each of fiscal years 1998 through 2002 by such percentage increase minus 2.0 percentage points.

"(iii) For each succeeding fiscal year by such percentage increase.".

SEC. 4616. REIMBURSEMENT FOR DRUGS AND BIOLOGICALS.

(a) IN GENERAL.—Section 1842 (42 U.S.C. 1395u) is amended by inserting after subsection (n) the following new subsection:

"(o) If a physician's, supplier's, or any other person's bill or request for payment for services includes a charge for a drug or biological for which payment may be made under this part and the drug or biological is not paid on a cost or prospective payment basis as otherwise provided in this part, the amount payable for the drug or biological is equal to 95 percent of the average wholesale price.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to drugs and biologicals furnished on or after January 1, 1998.

SEC. 4617. COVERAGE OF ORAL ANTI-NAUSEA DRUGS UNDER CHEMOTHERAPEUTIC REGIMEN.

(a) IN GENERAL.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)), as amended, is amended by inserting after subparagraph (S) the following new subparagraph:

"(T) an oral drug (which is approved by the Federal Food and Drug Administration) prescribed for use as an acute anti-emetic used as part of an anticancer chemotherapeutic regimen if the drug is administered by a physician (or as prescribed by a physician)—

"(i) for use immediately before, at, or within 48 hours after the time of the administration of the anticancer chemotherapeutic agent; and

"(ii) as a full replacement for the antiemetic therapy which would otherwise be administered intravenously.".

(b) PAYMENT LEVELS.—Section 1834 (42 U.S.C. 1395m), as amended by sections 4421(a)(2) and 4431(b)(2), is amended by adding at the end the following new subsection:

"(m) SPECIAL RULES FOR PAYMENT FOR ORAL ANTI-NAUSEA DRUGS.—

"(1) LIMITATION ON PER DOSE PAYMENT BASIS.—Subject to paragraph (2), the per dose payment basis under this part for oral anti-nausea drugs (as defined in paragraph (3)) administered during a year shall not exceed 90 percent of the average per dose payment basis for the equivalent intravenous anti-emetics administered during the year, as computed based on the payment basis applied during 1996.

"(2) AGGREGATE LIMIT.—The Secretary shall make such adjustment in the coverage of, or payment basis for, oral anti-nausea drugs so that coverage of such drugs under this part does not result in any increase in aggregate payments per capita under this part above the levels of such payments per capita that would otherwise have been made if there were no coverage for such drugs under this part.

"(3) ORAL ANTI-NAUSEA DRUGS DEFINED.—For purposes of this subsection, the term 'oral anti-nausea drugs' means drugs for which coverage is provided under this part pursuant to section 1861(s)(2)(P).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

SEC. 4618. RURAL HEALTH CLINIC SERVICES.

(a) PER-VISIT PAYMENT LIMITS FOR PROVIDER-BASED CLINICS.—

(1) EXTENSION OF LIMIT.—

(A) IN GENERAL.—The matter in section 1833(f) (42 U.S.C. 1395l(f)) preceding paragraph (1) is amended by striking "independent rural health clinics" and inserting "rural health clinics (other than such clinics in rural hospitals with less than 50 beds)".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) applies to services furnished after 1997.

(2) TECHNICAL CLARIFICATION.—Section 1833(f)(1) (42 U.S.C. 1395l(f)(1)) is amended by inserting "per visit" after "$46".

(b) ASSURANCE OF QUALITY SERVICES.—

(1) IN GENERAL.—Subparagraph (I) of the first sentence of section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended to read as follows:

"(I) has a quality assessment and performance improvement program, and appropriate procedures for review of utilization of clinic services, as the Secretary may specify,".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on January 1, 1998.

(c) WAIVER OF CERTAIN STAFFING REQUIREMENTS LIMITED TO CLINICS IN PROGRAM.—

(1) IN GENERAL.—Section 1861(aa)(7)(B) (42 U.S.C. 1395x(aa)(7)(B)) is amended by inserting before the period at the end the following: ", or if the facility has not yet been determined to meet the requirements (including subparagraph (J) of the first sentence of paragraph (2)) of a rural health clinic".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) applies to waiver requests made after 1997.

(d) REFINEMENT OF SHORTAGE AREA REQUIREMENTS.—

(1) DESIGNATION REVIEWED TRIENNIALLY.—Section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended in the second sentence, in the matter in clause (i) preceding subclause (I)—

(A) by striking "and that is designated" and inserting "and that, within the previous three-year period, has been designated"; and

(B) by striking "or that is designated" and inserting "or designated".

(2) AREA MUST HAVE SHORTAGE OF HEALTH CARE PRACTITIONERS.—Section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)), as amended by paragraph (1), is further amended in the second sentence, in the matter in clause (i) preceding subclause (I)—

(A) by striking the comma after "personal health services"; and

(B) by inserting "and in which there are insufficient numbers of needed health care practitioners (as determined by the Secretary)," after "Bureau of the Census)".

(3) PREVIOUSLY QUALIFYING CLINICS GRANDFATHERED ONLY TO PREVENT SHORTAGE.—Section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended in the third sentence by inserting before the period "if it is determined, in accordance with criteria established by the Secretary in regulations, to be essential to the delivery of primary care services that would otherwise be unavailable in the geographic area served by the clinic".

(4) EFFECTIVE DATES; IMPLEMENTING REGULATIONS.—

(A) IN GENERAL.—Except as otherwise provided, the amendments made by the preceding paragraphs take effect on January 1 of the first calendar year beginning at least one month after enactment of this Act.

(B) CURRENT RURAL HEALTH CLINICS.—The amendments made by the preceding paragraphs take effect, with respect to entities that are rural health clinics under title XVIII of the Social Security Act on the date of enactment of this Act, on January 1 of the second calendar year following the calendar year specified in subparagraph (A).

(C) GRANDFATHERED CLINICS.—

(i) IN GENERAL.—The amendment made by paragraph (3) shall take effect on the effective date of regulations issued by the Secretary under clause (ii).

(ii) REGULATIONS.—The Secretary shall issue final regulations implementing paragraph (3) that shall take effect no later than January 1 of the third calendar year beginning at least one month after enactment of this Act.

SEC. 4619. INCREASED MEDICARE REIMBURSEMENT FOR NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS.

(a) REMOVAL OF RESTRICTIONS ON SETTINGS.—

(1) IN GENERAL.—Clause (ii) of section 1861(s)(2)(K) (42 U.S.C. 1395x(s)(2)(K)) is amended to read as follows:

"(ii) services which would be physicians' services if furnished by a physician (as defined in subsection (r)(1)) and which are performed by a nurse practitioner or clinical nurse specialist (as defined in subsection (aa)(5)) working in collaboration (as defined in subsection (aa)(6)) with a physician (as defined in subsection (r)(1)) which the nurse practitioner or clinical nurse specialist is legally authorized to perform by the State in which the services are performed, and such services and supplies furnished as an incident to such services as would be covered under subparagraph (A) if furnished incident to a physician's professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services;".

(2) CONFORMING AMENDMENTS.—(A) Section 1861(s)(2)(K) of such Act (42 U.S.C. 1395x(s)(2)(K)) is further amended—

(i) in clause (i), by inserting "and such services and supplies furnished as incident to such services as would be covered under subparagraph (A) if furnished incident to a physician's professional service; and" after "are performed,"; and

(ii) by striking clauses (iii) and (iv).

(B) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is amended by striking "clauses (i) or (iii) of subsection (s)(2)(K)" and inserting "subsection (s)(2)(K)".

(C) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "section 1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)" and inserting "section 1861(s)(2)(K)".

(D) Section 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H)) is amended by striking "section 1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)" and inserting "section 1861(s)(2)(K)".

(E) Section 1888(e)(2)(A)(ii) (42 U.S.C. 1395yy(e)(2)(A)(ii)), as added by section 10401(a), is amended by striking "through (iii)" and inserting "and (ii)".

(b) INCREASED PAYMENT.—

(1) FEE SCHEDULE AMOUNT.—Clause (O) of section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended to read as follows: "(O) with respect to services described in section 1861(s)(2)(K)(ii) (relating to nurse practitioner or clinical nurse specialist services), the amounts paid 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, 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; and".

(2) CONFORMING AMENDMENTS.—(A) Section 1833(r) (42 U.S.C. 1395l(r)) is amended—

(i) in paragraph (1), by striking "section 1861(s)(2)(K)(iii) (relating to nurse practitioner or clinical nurse specialist services provided in a rural area)" and inserting "section 1861(s)(2)(K)(ii) (relating to nurse practitioner or clinical nurse specialist services)";

(ii) by striking paragraph (2);

(iii) in paragraph (3), by striking "section 1861(s)(2)(K)(iii)" and inserting "section 1861(s)(2)(K)(ii)"; and

(iv) by redesignating paragraph (3) as paragraph (2).

(B) Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended, in the matter preceding clause (i), by striking "clauses (i), (ii), or (iv) of section 1861(s)(2)(K) (relating to a physician assistants and nurse practitioners)" and inserting "section 1861(s)(2)(K)(i) (relating to physician assistants)".

(c) DIRECT PAYMENT FOR NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS.—

(1) IN GENERAL.—Section 1832(a)(2)(B)(iv) (42 U.S.C. 1395k(a)(2)(B)(iv)) is amended by striking "provided in a rural area (as defined in section 1886(d)(2)(D))" and inserting "but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services".

(2) CONFORMING AMENDMENT.—Section 1842(b)(6)(C) (42 U.S.C. 1395u(b)(6)(C)) is amended—

(A) by striking "clauses (i), (ii), or (iv)" and inserting "clause (i)"; and

(B) by striking "or nurse practitioner".

(d) DEFINITION OF CLINICAL NURSE SPECIALIST CLARIFIED.—Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)) is amended—

(1) by inserting "(A)" after "(5)";

(2) by striking "The term 'physician assistant'" and all that follows through "who performs" and inserting "The term 'physician assistant' and the term 'nurse practitioner' mean, for purposes of this title, a physician assistant or nurse practitioner who performs"; and

(3) by adding at the end the following new subparagraph:

"(B) The term 'clinical nurse specialist' means, for purposes of this title, an individual who—

"(i) is a registered nurse and is licensed to practice nursing in the State in which the clinical nurse specialist services are performed; and

"(ii) holds a master's degree in a defined clinical area of nursing from an accredited educational institution.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services furnished and supplies provided on and after January 1, 1998.

SEC. 4620. INCREASED MEDICARE REIMBURSEMENT FOR PHYSICIAN ASSISTANTS.

(a) REMOVAL OF RESTRICTION ON SETTINGS.—Section 1861(s)(2)(K)(i) (42 U.S.C. 1395x(s)(2)(K)(i)) is amended—

(1) by striking "(I) in a hospital" and all that follows through "shortage area,", and

(2) by adding at the end the following: "but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services,".

(b) INCREASED PAYMENT.—Paragraph (12) of section 1842(b) (42 U.S.C. 1395u(b)), as amended by section 4619(b)(2)(B), is amended to read as follows:

"(12) With respect to services described in section 1861(s)(2)(K)(i)—

"(A) payment under this part may only be made on an assignment-related basis; and

"(B) 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.".

(c) REMOVAL OF RESTRICTION ON EMPLOYMENT RELATIONSHIP.—Section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended by adding at the end the following new sentence: "For purposes of clause (C) of the first sentence of this paragraph, an employment relationship may include any independent contractor arrangement, and employer status shall be determined in accordance with the law of the State in which the services described in such clause are performed.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services furnished and supplies provided on and after January 1, 1998.

SEC. 4621. RENAL DIALYSIS-RELATED SERVICES.

(a) AUDITING OF COST REPORTS.—The Secretary shall audit a sample of cost reports of renal dialysis providers for 1995 and for each third year thereafter.

(b) IMPLEMENTATION OF QUALITY STANDARDS.—The Secretary of Health and Human Services shall develop and implement, by not later than January 1, 1999, a method to measure and report quality of renal dialysis services provided under the medicare program under title XVIII of the Social Security Act in order to reduce payments for inappropriate or low quality care.

SEC. 4622. PAYMENT FOR COCHLEAR IMPLANTS AS CUSTOMIZED DURABLE MEDICAL EQUIPMENT.

(a) IN GENERAL.—Section 1834(h)(1)(E) (42 U.S.C. 1395m(h)(1)(E)) is amended by adding at the end the following: "Payment for cochlear implants shall be made in accordance with subsection (a)(4), and, in applying such subsection to cochlear implants, carriers shall take into consideration technological innovations and data on charges to the extent that such charges reflect such innovations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to implants implanted on or after January 1, 1998.

CHAPTER 3—PART B PREMIUM

SEC. 4631. PART B PREMIUM.

(a) IN GENERAL.—The first, second and third sentences of section 1839(a)(3) (42 U.S.C. 1395r(a)(3)) are amended to read as follows: "The Secretary, during September of each year, shall determine and promulgate a monthly premium rate for the succeeding calendar year. That monthly premium rate shall be equal to 50 percent of the monthly actuarial rate for enrollees age 65 and over, determined according to paragraph (1), for that succeeding calendar year.".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—

(1) SECTION 1839.—Section 1839 (42 U.S.C. 1395r) is amended—

(A) in subsection (a)(2), by striking "(b) and (e)" and inserting "(b), (c), and (f)",

(B) in the last sentence of subsection (a)(3)—

(i) by inserting "rate" after "premium", and

(ii) by striking "and the derivation of the dollar amounts specified in this paragraph",

(C) by striking subsection (e), and

(D) by redesignating subsection (g) as subsection (e) and inserting that subsection after subsection (d).

(2) SECTION 1844.—Subparagraphs (A)(i) and (B)(i) of section 1844(a)(1) (42 U.S.C. 1395w(a)(1)) are each amended by striking "or 1839(e), as the case may be".

Subtitle H—Provisions Relating to Parts A and B

CHAPTER 1—PROVISIONS RELATING TO MEDICARE SECONDARY PAYER

SEC. 4701. PERMANENT EXTENSION AND REVISION OF CERTAIN SECONDARY PAYER PROVISIONS.

(a) APPLICATION TO DISABLED INDIVIDUALS IN LARGE GROUP HEALTH PLANS.—

(1) IN GENERAL.—Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is amended—

(A) in clause (i), by striking "clause (iv)" and inserting "clause (iii)",

(B) by striking clause (iii), and

(C) by redesignating clause (iv) as clause (iii).

(2) CONFORMING AMENDMENTS.—Paragraphs (1) through (3) of section 1837(i) (42 U.S.C. 1395p(i)) and the second sentence of section 1839(b) (42 U.S.C. 1395r(b)) are each amended by striking "1862(b)(1)(B)(iv)" each place it appears and inserting "1862(b)(1)(B)(iii)".

(b) INDIVIDUALS WITH END STAGE RENAL DISEASE.—

(1) IN GENERAL.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(A) in the first sentence, by striking "12-month" each place it appears and inserting "30-month", and

(B) by striking the second sentence.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to items and services furnished on or after the date of the enactment of this Act and with respect to periods beginning on or after the date that is 18 months prior to such date.

(c) IRS-SSA-HCFA DATA MATCH.—

(1) SOCIAL SECURITY ACT.—Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) INTERNAL REVENUE CODE.—Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

SEC. 4702. CLARIFICATION OF TIME AND FILING LIMITATIONS.

(a) EXTENSION OF CLAIMS FILING PERIOD.—Section 1862(b)(2)(B) (42 U.S.C. 1395y(b)(2)(B)) is amended by adding at the end the following new clause:

"(v) CLAIMS-FILING PERIOD.—Notwithstanding any other time limits that may exist for filing a claim under an employer group health plan, the United States may seek to recover conditional payments in accordance with this subparagraph where the request for payment is submitted to the entity required or responsible under this subsection to pay with respect to the item or service (or any portion thereof) under a primary plan within the 3-year period beginning on the date on which the item or service was furnished.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to items and services furnished after 1990. The previous sentence shall not be construed as permitting any waiver of the 3-year-period requirement (imposed by such amendment) in the case of items and services furnished more than 3 years before the date of the enactment of this Act.

SEC. 4703. PERMITTING RECOVERY AGAINST THIRD PARTY ADMINISTRATORS.

(a) PERMITTING RECOVERY AGAINST THIRD PARTY ADMINISTRATORS OF PRIMARY PLANS.—Section 1862(b)(2)(B)(ii) (42 U.S.C. 1395y(b)(2)(B)(ii)) is amended—

(1) by striking "under this subsection to pay" and inserting "(directly, as a third-party administrator, or otherwise) to make payment", and

(2) by adding at the end the following: "The United States may not recover from a third-party administrator under this clause in cases where the third-party administrator would not be able to recover the amount at issue from the employer or group health plan for whom it provides administrative services due to the insolvency or bankruptcy of the employer or plan.".

(b) CLARIFICATION OF BENEFICIARY LIABILITY.—Section 1862(b)(1) (42 U.S.C. 1395y(b)(1)) is amended by adding at the end the following new subparagraph:

"(F) LIMITATION ON BENEFICIARY LIABILITY.—An individual who is entitled to benefits under this title and is furnished an item or service for which such benefits are incorrectly paid is not liable for repayment of such benefits under this paragraph unless payment of such benefits was made to the individual.".

(c) EFFECTIVE DATE.—The amendments made by this section apply to items and services furnished on or after the date of the enactment of this Act.

CHAPTER 2—HOME HEALTH SERVICES

SEC. 4711. RECAPTURING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES FOR HOME HEALTH SERVICES.

(a) BASING UPDATES TO PER VISIT COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following:

"(iv) In establishing limits under this subparagraph for cost reporting periods beginning after September 30, 1997, the Secretary shall not take into account any changes in the home health market basket, as determined by the Secretary, 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 (42 U.S.C. 1395x(v)(1)(L)(ii)).

SEC. 4712. 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 moving the indentation of subclauses (I) through (III) 2-ems to the left;

(2) in subclause (I), by inserting "of the mean of the labor-related and nonlabor per visit costs for freestanding home health agencies" before the comma at the end;

(3) in subclause (II), by striking ", or" and inserting "of such mean,";

(4) in subclause (III)—

(A) by inserting "and before October 1, 1997," after "July 1, 1987,", and

(B) by striking the comma at the end and inserting "of such mean, or"; and

(5) by striking the matter following subclause (III) and inserting the following:

"(IV) October 1, 1997, 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 inserting ", or on or after July 1, 1997, and before October 1, 1997" after "July 1, 1996".

(c) ADDITIONS TO COST LIMITS.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)), as amended by section 4711(a), is amended by inserting adding at the end the following new clauses:

"(v) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1997, the Secretary shall provide for an interim system of limits. Payment shall not exceed the costs determined under the preceding provisions of this subparagraph or, if lower, the product of—

"(I) an agency-specific per beneficiary annual limitation calculated based 75 percent on the reasonable costs (including nonroutine medical supplies) for the agency's 12-month cost reporting period ending during 1994, and based 25 percent on the standardized regional average of such costs for the agency's region for cost reporting periods ending during 1994, such costs updated by the home health market basket index; and

"(II) the agency's unduplicated census count of patients (entitled to benefits under this title) for the cost reporting period subject to the limitation.

"(vi) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1997, the following rules apply:

"(I) For new providers and those providers without a 12-month cost reporting period ending in calendar year 1994, the per beneficiary limitation shall be equal to the median of these limits (or the Secretary's best estimates thereof) applied to other home health agencies as determined by the Secretary. A home health agency that has altered its corporate structure or name shall not be considered a new provider for this purpose.

"(II) For beneficiaries who use services furnished by more than one home health agency, the per beneficiary limitations shall be prorated among the agencies.".

(d) DEVELOPMENT OF CASE MIX SYSTEM.—The Secretary of Health and Human Services shall expand research on a prospective payment system for home health agencies under the medicare program that ties prospective payments to a unit of service, including an intensive effort to develop a reliable case mix adjuster that explains a significant amount of the variances in costs.

(e) SUBMISSION OF DATA FOR CASE MIX SYSTEM.—Effective for cost reporting periods beginning on or after October 1, 1997, the Secretary of Health and Human Services may require all home health agencies to submit additional information that the Secretary considers necessary for the development of a reliable case mix system.

SEC. 4713. CLARIFICATION OF PART-TIME OR INTERMITTENT NURSING CARE.

(a) IN GENERAL.—Section 1861(m) (42 U.S.C. 1395x(m)) is amended by adding at the end the following: "For purposes of paragraphs (1) and (4), the term 'part-time or intermittent services' means skilled nursing and home health aide services furnished any number of days per week as long as they are furnished (combined) less than 8 hours each day and 28 or fewer hours each week (or, subject to review on a case-by-case basis as to the need for care, less than 8 hours each day and 35 or fewer hours per week). For purposes of sections 1814(a)(2)(C) and 1835(a)(2)(A), 'intermittent' means skilled nursing care that is either provided or needed on fewer than 7 days each week, or less than 8 hours of each day for periods of 21 days or less (with extensions in exceptional circumstances when the need for additional care is finite and predictable).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to services furnished on or after October 1, 1997.

SEC. 4714. STUDY ON DEFINITION OF HOMEBOUND.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study of the criteria that should be applied, and the method of applying such criteria, in the determination of whether an individual is homebound for purposes of qualifying for receipt of benefits for home health services under the medicare program. Such criteria shall include the extent and circumstances under which a person may be absent from the home but nonetheless qualify.

(b) REPORT.—Not later than October 1, 1998, the Secretary shall submit a report to the Congress on the study conducted under subsection (a). The report shall include specific recommendations on such criteria and methods.

SEC. 4715. PAYMENT BASED ON LOCATION WHERE HOME HEALTH SERVICE IS FURNISHED.

(a) CONDITIONS OF PARTICIPATION.—Section 1891 (42 U.S.C. 1395bbb) is amended by adding at the end the following:

"(g) PAYMENT ON BASIS OF LOCATION OF SERVICE.—A home health agency shall submit claims for payment for 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".

(c) EFFECTIVE DATE.—The amendments made by this section apply to cost reporting periods beginning on or after October 1, 1997.

SEC. 4716. NORMATIVE STANDARDS FOR HOME HEALTH CLAIMS DENIALS.

(a) IN GENERAL.—Section 1862(a)(1) (42 U.S.C. 1395y(a)(1)), as amended by section 4103(c), is amended—

(1) by striking "and" at the end of subparagraph (G),

(2) by striking the semicolon at the end of subparagraph (H) and inserting ", and", and

(3) by inserting after subparagraph (H) the following new subparagraph:

"(I) the frequency and duration of home health services which are in excess of normative guidelines that the Secretary shall establish by regulation;".

(b) NOTIFICATION.—The Secretary of Health and Human Services may establish a process for notifying a physician in cases in which the number of home health service visits furnished under the medicare program pursuant to a prescription or certification of the physician significantly exceeds such threshold (or thresholds) as the Secretary specifies. The Secretary may adjust such threshold to reflect demonstrated differences in the need for home health services among different beneficiaries.

(c) EFFECTIVE DATE.—The amendments made by this section apply to services furnished on or after October 1, 1997.

SEC. 4717. NO HOME HEALTH BENEFITS BASED SOLELY ON DRAWING BLOOD.

(a) IN GENERAL.—Sections 1814(a)(2)(C) and 1835(a)(2)(A) (42 U.S.C. 1395f(a)(2)(C), 1395n(a)(2)(A)) are each amended by inserting "(other than solely venipuncture for the purpose of obtaining a blood sample)" after "skilled nursing care".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to home health services furnished after the 6-month period beginning after the date of enactment of this Act.

SEC. 4718. MAKING PART B PRIMARY PAYOR FOR CERTAIN HOME HEALTH SERVICES.

(a) IN GENERAL.—Section 1833(d) (42 U.S.C. 1395l(d)) is amended—

(1) by striking "(d) No" and inserting "(d)(1) Subject to paragraph (2), no", and

(2) by adding at the end the following new paragraph:

"(2) Payment shall be made under this part (rather than under part A), for an individual entitled to benefits under part A, for home health services, other than the first 100 visits of post-hospital home health services furnished to an individual.".

(b) POST-HOSPITAL HOME HEALTH SERVICES.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following:

"(ss) POST-HOSPITAL HOME HEALTH SERVICES.—The term 'post-hospital home health services' means home health services furnished to an individual under a plan of treatment established when the individual was an inpatient of a hospital or rural primary care hospital for not less than 3 consecutive days before discharge, or during a covered post-hospital extended care stay, if home health services are initiated for the individual within 30 days after discharge from the hospital, rural primary care hospital or extended care facility.".

(c) PAYMENTS UNDER PART B.—Subparagraph (A) of section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended to read as follows:

"(A) with respect to home health services (other than a covered osteoporosis drug (as defined in section 1861(kk)), and to items and services described in section 1861(s)(10)(A), the amounts determined under section 1861(v)(1)(L) or section 1893, or, if the services are furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary

that a significant portion of its patients are low-income (and requests that payment be made under this provision), free of charge, or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2);".

(d) PHASE-IN OF ADDITIONAL PART B COSTS IN DETERMINATION OF PART B MONTHLY PREMIUM.—Section 1839(a) (42 U.S.C. 1395r(a)) is amended—

(1) in paragraph (3) in last the sentence inserted by section 4631(a) of this title, by inserting "(except as provided in paragraph (5)(B))" before the period, and

(2) by adding after paragraph (4) the following:

"(5)(A) The Secretary shall, at the time of determining the monthly actuarial rate under paragraph (1) for 1998 through 2003, shall determine a transitional monthly actuarial rate for enrollees age 65 and over in the same manner as such rate is determined under paragraph (1), except that there shall be excluded from such determination an estimate of any benefits and administrative costs attributable to home health services for which payment would have been made under part A during the year but for paragraph (2) of section 1833(d).

"(B) The monthly premium for each individual enrolled under this part for each month for a year (beginning with 1998 and ending with 2003) shall be equal to 50 percent of the monthly actuarial rate determined under subparagraph (A) increased by the following proportion of the difference between such premium and the monthly premium otherwise determined under paragraph (3) (without regard to this paragraph):

"(i) For a month in 1998, 1/7.

"(ii) For a month in 1999, 2/7.

"(iii) For a month in 2000, 3/7.

"(iv) For a month in 2001, 4/7.

"(v) For a month in 2002, 5/7.

"(vi) For a month in 2003, 6/7.".

(e) MAINTAINING APPEAL RIGHTS FOR HOME HEALTH SERVICES.—Section 1869(b)(2)(B) (42 U.S.C. 1395ff(b)(2)(B)) is amended by inserting "(or $100 in the case of home health services)" after "$500".

(f) REPORT.—Not later than October 1, 1999, the Secretary of Health and Human Services shall submit a report to the Committees on Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the impact on home health utilization and admissions to hospitals and skilled nursing facilities of the amendment made by subsection (b). The Secretary shall further reexamine and submit a report to such Committees on this impact 1 year after the full implementation of the prospective payment system for home health services into the medicare program, effected under the amendments made by section 4441.

(g) EFFECTIVE DATE.—The amendments made by this section apply to services furnished on or after October 1, 1997.

CHAPTER 3—BABY BOOM GENERATION MEDICARE COMMISSION

SEC. 4721. BIPARTISAN COMMISSION ON THE EFFECT OF THE BABY BOOM GENERATION ON THE MEDICARE PROGRAM.

(a) ESTABLISHMENT.—There is established a commission to be known as the Bipartisan Commission on the Effect of the Baby Boom Generation on the Medicare Program (in this section referred to as the "Commission").

(b) DUTIES.—

(1) IN GENERAL.—The Commission shall—

(A) examine the financial impact on the medicare program of the significant increase in the number of medicare eligible individuals which will occur beginning approximately during 2010 and lasting for approximately 25 years, and

(B) make specific recommendations to the Congress respecting a comprehensive approach to preserve the medicare program for the period during which such individuals are eligible for medicare.

(2) CONSIDERATIONS IN MAKING RECOMMENDATIONS.—In making its recommendations, the Commission shall consider the following:

(A) The amount and sources of Federal funds to finance the medicare program, including the potential use of innovative financing methods.

(B) Methods used by other nations to respond to comparable demographic patterns in eligibility for health care benefits for elderly and disabled individuals.

(C) Modifying age-based eligibility to correspond to changes in age-based eligibility under the OASDI program.

(D) Trends in employment-related health care for retirees, including the use of medical savings accounts and similar financing devices.

(E) The role medicare should play in addressing the needs of persons with chronic illness.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 15 voting members as follows:

(A) The Majority Leader of the Senate shall appoint, after consultation with the minority leader of the Senate, 6 members, of whom not more than 4 may be of the same political party.

(B) The Speaker of the House of Representatives shall appoint, after consultation with the minority leader of the House of Representatives, 6 members, of whom not more than 4 may be of the same political party.

(C) The 3 ex officio members of the Board of Trustees of the Federal Hospital Insurance Trust Fund and of the Federal Supplementary Medical Insurance Trust Fund who are Cabinet level officials.

(2) CHAIRMAN AND VICE CHAIRMAN.—As the first item of business at the Commission's first meeting (described in paragraph (5)(B)), the Commission shall elect a Chairman and Vice Chairman from among its members. The individuals elected as Chairman and Vice Chairman may not be of the same political party and may not have been appointed to the Commission by the same appointing authority.

(3) VACANCIES.—Any vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made and shall not affect the power of the remaining members to execute the duties of the Commission.

(4) QUORUM.—A quorum shall consist of 8 members of the Commission, except that 4 members may conduct a hearing under subsection (f).

(5) MEETINGS.—

(A) The Commission shall meet at the call of its Chairman or a majority of its members.

(B) The Commission shall hold its first meeting not later than February 1, 1998.

(6) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—Members of the Commission are not entitled to receive compensation for service on the Commission. Members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Commission.

(d) ADVISORY PANEL.—

(1) IN GENERAL.—The Chairman, in consultation with the Vice Chairman, may establish a panel (in this section referred to as the "Advisory Panel") consisting of health care experts, consumers, providers, and others to advise and assist the members of the Commission in carrying out the duties described in subsection (b). The panel shall have only those powers that the Chairman, in consultation with the Vice Chairman, determines are necessary and appropriate to assist the Commission in carrying out such duties.

(2) COMPENSATION.—Members of the Advisory Panel are not entitled to receive compensation for service on the Advisory Panel. Subject to the approval of the chairman of the Commission, members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Advisory Panel.

(e) STAFF AND CONSULTANTS.—

(1) STAFF.—The Commission may appoint and determine the compensation of such staff as may be necessary to carry out the duties of the Commission. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(2) CONSULTANTS.—The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(f) POWERS.—

(1) HEARINGS AND OTHER ACTIVITIES.—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties.

(2) STUDIES BY GAO.—Upon the request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

(3) COST ESTIMATES BY CONGRESSIONAL BUDGET OFFICE.—

(A) Upon the request of the Commission, the Director of the Congressional Budget Office shall provide to the Commission such cost estimates as the Commission determines to be necessary to carry out its duties.

(B) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

(4) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(6) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(7) OBTAINING INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(8) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(9) PRINTING.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

(g) REPORT.—Not later than May 1, 1999, the Commission shall submit to Congress a report containing its findings and recommendations regarding how to protect and preserve the medicare program in a financially solvent manner until 2030 (or, if later, throughout the period of projected solvency of the Federal Old-Age and Survivors Insurance Trust Fund). The report shall include detailed recommendations for appropriate legislative initiatives respecting how to accomplish this objective.

(h) TERMINATION.—The Commission shall terminate 30 days after the date of submission of the report required in subsection (g).

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,500,000 to carry out this section. 60 percent of such appropriation shall be payable from the Federal Hospital Insurance Trust Fund, and 40 percent of such appropriation shall be payable from the Federal Supplementary Medical Insurance Trust Fund under title XVIII of the Social Security Act (42 U.S.C. 1395i, 1395t).

CHAPTER 4—PROVISIONS RELATING TO DIRECT GRADUATE MEDICAL EDUCATION

SEC. 4731. LIMITATION ON PAYMENT BASED ON NUMBER OF RESIDENTS AND IMPLEMENTATION OF ROLLING AVERAGE FTE COUNT.

Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)) is amended by adding after subparagraph (E) the following:

"(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, 1997, the total number of full-time equivalent residents before application of weighting factors (as determined under this paragraph) with respect to a hospital's approved medical residency training program may not exceed the number of full-time equivalent residents with respect to the hospital's most recent cost reporting period ending on or before December 31, 1996.

"(G) COUNTING INTERNS AND RESIDENTS FOR FY 1998 AND SUBSEQUENT YEARS.—

"(i) FY 1998.—For the hospital's first cost reporting period beginning during fiscal year 1998, subject to the limit described in subparagraph (F), the total number of full-time equivalent residents, for determining the hospital's graduate medical education payment, shall equal the average of the full-time equivalent resident counts for the cost reporting period and the preceding cost reporting period.

"(ii) SUBSEQUENT YEARS.—For each subsequent cost reporting period, subject to the limit described in subparagraph (F), the total number of full-time equivalent residents, for determining the hospital's graduate medical education payment, shall equal the average of the actual full-time equivalent resident counts for the cost reporting period and preceding two cost reporting periods.

"(iii) ADJUSTMENT FOR SHORT PERIODS.—If a hospital's cost reporting period beginning on or after October 1, 1997, is not equal to twelve months, the Secretary shall make appropriate modifications to ensure that the average full-time equivalent resident counts pursuant to clause (ii) are based on the equivalent of full 12-month cost reporting periods.

"(iv) EXCLUSION OF RESIDENTS IN DENTISTRY.—Residents in an approved medical residency training program in dentistry shall not be counted for purposes of this subparagraph and subparagraph (F).".

SEC. 4732. PHASED-IN LIMITATION ON HOSPITAL OVERHEAD AND SUPERVISORY PHYSICIAN COMPONENT OF DIRECT MEDICAL EDUCATION COSTS.

(a) IN GENERAL.—Section 1886(h)(3) (42 U.S.C. 1395ww(h)(3)) is amended—

(1) in subparagraph (B), by inserting "subject to subparagraph (D)," after "subparagraph (A)", and

(2) by adding at the end the following:

"(D) PHASED-IN LIMITATION ON HOSPITAL OVERHEAD AND SUPERVISORY PHYSICIAN COMPONENT.—

"(i) IN GENERAL.—In the case of a hospital for which the overhead GME amount (as defined in clause (ii)) for the base period exceeds an amount equal to the 75th percentile of the overhead GME amounts in such period for all hospitals (weighted to reflect the full-time equivalent resident counts for all approved medical residency training programs), subject to clause (iv), the hospital's approved FTE resident amount (for periods beginning on or after October 1, 1997) shall be reduced from the amount otherwise applicable (as previously reduced under this subparagraph) by an overhead reduction amount. The overhead reduction amount is equal to the lesser of—

"(I) 20 percent of the reference reduction amount (described in clause (iii)) for the period, or

"(II) 15 percent of the hospital's overhead GME amount for the period (as otherwise determined before the reduction provided under this subparagraph for the period involved).

"(ii) OVERHEAD GME AMOUNT.—For purposes of this subparagraph, the term 'overhead GME amount' means, for a hospital for a period, the product of—

"(I) the percentage of the hospital's approved FTE resident amount for the base period that is not attributable to resident salaries and fringe benefits, and

"(II) the hospital's approved FTE resident amount for the period involved.

"(iii) REFERENCE REDUCTION AMOUNT.—

"(I) IN GENERAL.—The reference reduction amount described in this clause for a hospital for a cost reporting period is the base difference (described in subclause (II)) updated, in a compounded manner for each period from the base period to the period involved, by the update applied for such period to the hospital's approved FTE resident amount.

"(II) BASE DIFFERENCE.—The base difference described in this subclause for a hospital is the amount by which the hospital's overhead GME amount in the base period exceeded the 75th percentile of such amounts (as described in clause (i)).

"(iv) MAXIMUM REDUCTION TO 75TH PERCENTILE.—In no case shall the reduction under this subparagraph effected for a hospital for a period (below the amount that would otherwise apply for the period if this subparagraph did not apply for any period) exceed the reference reduction amount for the hospital for the period.

"(v) BASE PERIOD.—For purposes of this subparagraph, the term 'base period' means the cost reporting period beginning in fiscal year 1984 or the period used to establish the hospital's approved FTE resident amount for hospitals that did not have approved residency training programs in fiscal year 1984.

"(vi) RULES FOR HOSPITALS INITIATING RESIDENCY TRAINING PROGRAMS.—The Secretary shall establish rules for the application of this subparagraph in the case of a hospital that initiates medical residency training programs during or after the base period.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to per resident payment amounts attributable to periods beginning on or after October 1, 1997.

SEC. 4733. PERMITTING PAYMENT TO NON-HOSPITAL PROVIDERS.

(a) IN GENERAL.—Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following:

"(k) PAYMENT TO NON-HOSPITAL PROVIDERS.—

"(1) REPORT.—The Secretary shall submit to Congress, not later than 18 months after the date of the enactment of this subsection, a proposal for payment to qualified non-hospital providers for their direct costs of medical education, if those costs are incurred in the operation of an approved medical residency training program described in subsection (h). Such proposal shall specify the amounts, form, and manner in which such payments will be made and the portion of such payments that will be made from each of the trust funds under this title.

"(2) EFFECTIVENESS.—Except as otherwise provided in law, the Secretary may implement such proposal for residency years beginning not earlier than 6 months after the date of submittal of the report under paragraph (1).

"(3) QUALIFIED NON-HOSPITAL PROVIDERS.—For purposes of this subsection, the term 'qualified non-hospital provider' means—

"(A) a Federally qualified health center, as defined in section 1861(aa)(4);

"(B) a rural health clinic, as defined in section 1861(aa)(2); and

"(C) such other providers (other than hospitals) as the Secretary determines to be appropriate.".

(b) PROHIBITION ON DOUBLE PAYMENTS; BUDGET NEUTRALITY ADJUSTMENT.—Section 1886(h)(3)(B) (42 U.S.C. 1395ww(h)(3)(B)) is amended by adding at the end the following:

"The Secretary shall reduce the aggregate approved amount to the extent payment is made under subsection (k) for residents included in the hospital's count of full-time equivalent residents and, in the case of residents not included in any such count, the Secretary shall provide for such a reduction in aggregate approved amounts under this subsection as will assure that the application of subsection (k) does not result in any increase in expenditures under this title in excess of those that would have occurred if subsection (k) were not applicable.".

SEC. 4734. INCENTIVE PAYMENTS UNDER PLANS FOR VOLUNTARY REDUCTION IN NUMBER OF RESIDENTS.

Section 1886(h) (42 U.S.C. 1395ww(h)) is further amended by adding at the end the following new paragraph:

"(6) INCENTIVE PAYMENT UNDER PLANS FOR VOLUNTARY REDUCTION IN NUMBER OF RESIDENTS.—

"(A) IN GENERAL.—In the case of a voluntary residency reduction plan for which an application is approved under subparagraph (B), the qualifying entity submitting the plan shall be paid an applicable hold harmless percentage (as specified in subparagraph (E)) of the sum of—

"(i) amount (if any) by which—

"(I) the amount of payment which would have been made under this subsection if there had been a 5 percent reduction in the number of full-time equivalent residents in the approved medical education training programs of the qualifying entity as of June 30, 1997, exceeds

"(II) the amount of payment which is made under this subsection, taking into account the reduction in such number effected under the reduction plan; and

"(ii) the amount of the reduction in payment under 1886(d)(5)(B) (for hospitals participating in the qualifying entity) that is attributable to the reduction in number of residents effected under the plan below 95 percent of the number of full-time equivalent residents in such programs of such entity as of June 30, 1997.

"(B) APPROVAL OF PLAN APPLICATIONS.—The Secretary may not approve the application of an qualifying entity unless—

"(i) the application is submitted in a form and manner specified by the Secretary and by not later than March 1, 2000,

"(ii) the application provides for the operation of a plan for the reduction in the number of full-time equivalent residents in the approved medical residency training programs of the entity consistent with the requirements of subparagraph (D);

"(iii) the entity elects in the application whether such reduction will occur over—

"(I) a period of not longer than 5 residency training years, or

"(II) a period of 6 residency training years,

except that a qualifying entity described in subparagraph (C)(i)(III) may not make the election described in subclause (II); and

"(iv) the Secretary determines that the application and the entity and such plan meet such other requirements as the Secretary specifies in regulations.

"(C) QUALIFYING ENTITY.—

"(i) IN GENERAL.—For purposes of this paragraph, any of the following may be a qualifying entity:

"(I) Individual hospitals operating one or more approved medical residency training programs.

"(II) Subject to clause (ii), two or more hospitals that operate such programs and apply for treatment under this paragraph as a single qualifying entity.

"(III) Subject to clause (iii), a qualifying consortium (as described in section 4735 of the Balanced Budget Act of 1997).

"(ii) ADDITIONAL REQUIREMENT FOR JOINT PROGRAMS.—In the case of an application by a qualifying entity described in clause (i)(II), the Secretary may not approve the application unless the application represents that the qualifying entity either—

"(I) in the case of an entity that meets the requirements of clause (v) of subparagraph (D) will not reduce the number of full-time equivalent residents in primary care during the period of the plan, or

"(II) in the case of another entity will not reduce the proportion of its residents in primary care (to the total number of residents) below such proportion as in effect as of the applicable time described in subparagraph (D)(vi).

"(iii) ADDITIONAL REQUIREMENT FOR CONSORTIA.—In the case of an application by a qualifying entity described in clause (i)(III), the Secretary may not approve the application unless the application represents that the qualifying entity will not reduce the proportion of its residents in primary care (to the total number of residents) below such proportion as in effect as of the applicable time described in subparagraph (D)(vi).

"(D) RESIDENCY REDUCTION REQUIREMENTS.—

"(i) INDIVIDUAL HOSPITAL APPLICANTS.—In the case of a qualifying entity described in subparagraph (C)(i)(I), the number of full-time equivalent residents in all the approved medical residency training programs operated by or through the entity shall be reduced as follows:

"(I) If base number of residents exceeds 750 residents, by a number equal to at least 20 percent of such base number.

"(II) Subject to subclause (IV), if base number of residents exceeds 500, but is less than 750, residents, by 150 residents.

"(III) Subject to subclause (IV), if base number of residents does not exceed 500 residents, by a number equal to at least 25 percent of such base number.

"(IV) In the case of a qualifying entity which is described in clause (v) and which elects treatment under this subclause, by a number equal to at least 20 percent of such base number.

"(ii) JOINT APPLICANTS.—In the case of a qualifying entity described in subparagraph (C)(i)(II), the number of full-time equivalent residents in all the approved medical residency training programs operated by or through the entity shall be reduced as follows:

"(I) Subject to subclause (II), by a number equal to at least 25 percent of such base number.

"(II) In the case of a qualifying entity which is described in clause (v) and which elects treatment under this subclause, by a number equal to at least 20 percent of such base number.

"(iii) CONSORTIA.—In the case of a qualifying entity described in subparagraph (C)(i)(III), the number of full-time equivalent residents in all the approved medical residency training programs operated by or through the entity shall be reduced by a number equal to at least 20 percent of such base number.

"(iv) MANNER OF REDUCTION.—The reductions specified under the preceding provisions of this subparagraph for a qualifying entity shall be below the base number of residents for that entity and shall be fully effective not later than—

"(I) the 5th residency training year in which the application under subparagraph (B) is effective, in the case of an entity making the election described in subparagraph (B)(iii)(I), or

"(II) the 6th such residency training year, in the case of an entity making the election described in subparagraph (B)(iii)(II).

"(v) ENTITIES PROVIDING ASSURANCE OF MAINTENANCE OF PRIMARY CARE RESIDENTS.—An entity is described in this clause if—

"(I) the base number of residents for the entity is less than 750;

"(II) the number of full-time equivalent residents in primary care included in the base number of residents for the entity is at least 10 percent of such base number; and

"(III) the entity represents in its application under subparagraph (B) that there will be no reduction under the plan in the number of full-time equivalent residents in primary care.

If a qualifying entity fails to comply with the representation described in subclause (III), the entity shall be subject to repayment of all amounts paid under this paragraph, in accordance with procedures established to carry out subparagraph (F).

"(vi) BASE NUMBER OF RESIDENTS DEFINED.—For purposes of this paragraph, the term 'base number of residents' means, with respect to a qualifying entity operating approved medical residency training programs, the number of full-time equivalent residents in such programs (before application of weighting factors) of the entity as of the most recent cost reporting period ending before June 30, 1997, or, if less, for any subsequent cost reporting period that ends before the date the entity makes application under this paragraph.

"(E) APPLICABLE HOLD HARMLESS PERCENTAGE.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the 'applicable hold harmless percentage' is the percentages specified in clause (ii) or clause (iii), as elected by the qualifying entity in the application submitted under subparagraph (B).

"(ii) 5-YEAR REDUCTION PLAN.—In the case of an entity making the election described in subparagraph (B)(iii)(I), the percentages specified in this clause are, for the—

"(I) first and second residency training years in which the reduction plan is in effect, 100 percent,

"(II) third such year, 75 percent,

"(III) fourth such year, 50 percent, and

"(IV) fifth such year, 25 percent.

"(iii) 6-YEAR REDUCTION PLAN.—In the case of an entity making the election described in subparagraph (B)(iii)(II), the percentages specified in this clause are, for the—

"(I) first residency training year in which the reduction plan is in effect, 100 percent,

"(II) second such year, 95 percent,

"(III) third such year, 85 percent,

"(IV) fourth such year, 70 percent,

"(V) fifth such year, 50 percent, and

"(VI) sixth such year, 25 percent.

"(F) PENALTY FOR INCREASE IN NUMBER OF RESIDENTS IN SUBSEQUENT YEARS.—If payments are made under this paragraph to a qualifying entity, if the entity (or any hospital operating as part of the entity) increases the number of full-time equivalent residents above the number of such residents permitted under the reduction plan as of the completion of the plan, then, as specified by the Secretary, the entity is liable for repayment to the Secretary of the total amounts paid under this paragraph to the entity.

"(G) TREATMENT OF ROTATING RESIDENTS.—In applying this paragraph, the Secretary shall establish rules regarding the counting of residents who are assigned to institutions the medical residency training programs in which are not covered under approved applications under this paragraph.".

(b) RELATION TO DEMONSTRATION PROJECTS AND AUTHORITY.—

(1) Section 1886(h)(6) of the Social Security Act, added by subsection (a), shall not apply to any residency training program with respect to which a demonstration project described in paragraph (3) has been approved by the Health Care Financing Administration as of May 27, 1997. The Secretary of Health and Human Services shall take such actions as may be necessary to assure that (in the manner described in subparagraph (A) of such section) in no case shall payments be made under such a project with respect to the first 5 percent reduction in the base number of full-time equivalent residents otherwise used under the project.

(2) Effective May 27, 1997, the Secretary of Health and Human Services is not authorized to approve any demonstration project described in paragraph (3) for any residency training year beginning before July 1, 2006.

(3) A demonstration project described in this paragraph is a project that provides for additional payments under title XVIII of the Social Security Act in connection with reduction in the number of residents in a medical residency training program.

(c) INTERIM, FINAL REGULATIONS.—In order to carry out the amendment made by subsection (a) in a timely manner, the Secretary of Health and Human Services may first promulgate regulations, that take effect on an interim basis, after notice and pending opportunity for public comment, by not later than 6 months after the date of the enactment of this Act.

SEC. 4735. DEMONSTRATION PROJECT ON USE OF CONSORTIA.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the Secretary) shall establish a demonstration project under which, instead of making payments to teaching hospitals pursuant to section 1886(h) of the Social Security Act, the Secretary shall make payments under this section to each consortium that meets the requirements of subsection (b).

(b) QUALIFYING CONSORTIA.—For purposes of subsection (a), a consortium meets the requirements of this subsection if the consortium is in compliance with the following:

(1) The consortium consists of an approved medical residency training program in a teaching hospital and one or more of the following entities:

(A) A school of allopathic medicine or osteopathic medicine.

(B) Another teaching hospital, which may be a children's hospital.

(C) Another approved medical residency training program.

(D) A Federally qualified health center.

(E) A medical group practice.

(F) A managed care entity.

(G) An entity furnishing outpatient services.

(I) Such other entity as the Secretary determines to be appropriate.

(2) The members of the consortium have agreed to participate in the programs of graduate medical education that are operated by the entities in the consortium.

(3) With respect to the receipt by the consortium of payments made pursuant to this section, the members of the consortium have agreed on a method for allocating the payments among the members.

(4) The consortium meets such additional requirements as the Secretary may establish.

(c) AMOUNT AND SOURCE OF PAYMENT.—The total of payments to a qualifying consortium for a fiscal year pursuant to subsection (a) shall not exceed the amount that would have been paid under section 1886(h) of the Social Security Act for the teaching hospital (or hospitals) in the consortium. Such payments shall be made in such proportion from each of the trust funds established under title XVIII of such Act as the Secretary specifies.

SEC. 4736. RECOMMENDATIONS ON LONG-TERM PAYMENT POLICIES REGARDING FINANCING TEACHING HOSPITALS AND GRADUATE MEDICAL EDUCATION.

(a) IN GENERAL.—The Medicare Payment Advisory Commission (established under section 1805 of the Social Security Act and in this section referred to as the "Commission") shall examine and develop recommendations on whether and to what extent medicare payment policies and other Federal policies regarding teaching hospitals and graduate medical education should be reformed. Such recommendations shall include recommendations regarding each of the following:

(1) The financing of graduate medical education, including consideration of alternative broad-based sources of funding for such education and models for the distribution of payments under any all-payer financing mechanism.

(2) The financing of teaching hospitals, including consideration of the difficulties encountered by such hospitals as competition among health care entities increases. Matters considered under this paragraph shall include consideration of the effects on teaching hospitals of the method of financing used for the MedicarePlus program under part C of title XVIII of the Social Security Act.

(3) Possible methodologies for making payments for graduate medical education and the selection of entities to receive such payments. Matters considered under this paragraph shall include—

(A) issues regarding children's hospitals and approved medical residency training programs in pediatrics, and

(B) whether and to what extent payments are being made (or should be made) for training in the various nonphysician health professions, including social workers and psychologists.

(4) Federal policies regarding international medical graduates.

(5) The dependence of schools of medicine on service-generated income.

(6) Whether and to what extent the needs of the United States regarding the supply of physicians, in the aggregate and in different specialties, will change during the 10-year period beginning on October 1, 1997, and whether and to what extent any such changes will have significant financial effects on teaching hospitals.

(7) Methods for promoting an appropriate number, mix, and geographical distribution of health professionals.

(c) CONSULTATION.—In conducting the study under subsection (a), the Commission shall consult with the Council on Graduate Medical Education and individuals with expertise in the area of graduate medical education, including—

(1) deans from allopathic and osteopathic schools of medicine;

(2) chief executive officers (or equivalent administrative heads) from academic health centers, integrated health care systems, approved medical residency training programs, and teaching hospitals that sponsor approved medical residency training programs;

(3) chairs of departments or divisions from allopathic and osteopathic schools of medicine, schools of dentistry, and approved medical residency training programs in oral surgery;

(4) individuals with leadership experience from representative fields of non-physician health professionals;

(5) individuals with substantial experience in the study of issues regarding the composition of the health care workforce of the United States; and

(6) individuals with expertise on the financing of health care.

(d) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Commission shall submit to the Congress a report providing its recommendations under this section and the reasons and justifications for such recommendations.

SEC. 4737. MEDICARE SPECIAL REIMBURSEMENT RULE FOR CERTAIN COMBINED RESIDENCY PROGRAMS.

(a) IN GENERAL.—Section 1886(h)(5)(G) (42 U.S.C. 1395ww(h)(5)(G)) is amended—

(1) in clause (i), by striking "and (iii)" and inserting ", (iii), and (iv)"; and

(2) by adding at the end the following:

"(iv) SPECIAL RULE FOR CERTAIN COMBINED RESIDENCY PROGRAMS.—(I) In the case of a resident enrolled in a combined medical residency training program in which all of the individual programs (that are combined) are for training a primary care resident (as defined in subparagraph (H)), the period of board eligibility shall be the minimum number of years of formal training required to satisfy the requirements for initial board eligibility in the longest of the individual programs plus one additional year.

"(II) A resident enrolled in a combined medical residency training program that includes an obstetrics and gynecology program shall qualify for the period of board eligibility under subclause (I) if the other programs such resident combines with such obstetrics and gynecology program are for training a primary care resident.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to combined medical residency programs for residency years beginning on or after July 1, 1998.

CHAPTER 5—OTHER PROVISIONS

SEC. 4741. CENTERS OF EXCELLENCE.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1888 the following:

"CENTERS OF EXCELLENCE

"SEC. 1889. (a) IN GENERAL.—The Secretary shall use a competitive process to contract with specific hospitals or other entities for furnishing services related to surgical procedures, and for furnishing services (unrelated to surgical procedures) to hospital inpatients that the Secretary determines to be appropriate. The services may include any services covered under this title that the Secretary determines to be appropriate, including post-hospital services.

"(b) QUALITY STANDARDS.—

"(1) IN GENERAL.—Only entities that meet quality standards established by the Secretary shall be eligible to contract under this section. Contracting entities shall implement a quality improvement plan approved by the Secretary.

"(2) PARTICIPATION DECISION BASED ON QUALITY.—Subject to subsection (c), the Secretary shall consider quality as the primary factor in selecting hospitals or other entities to enter into contracts under this section.

"(c) PAYMENT.—Payment under this section shall be made on the basis of negotiated all-inclusive rates. The amount of payment made by the Secretary to an entity under this title for services covered under a contract shall not exceed the aggregate amount of the payments that the Secretary would have otherwise made for the services.

"(d) CONTRACT PERIOD.—A contract period shall be 3 years (subject to renewal), so long as the entity continues to meet quality and other contractual standards.

"(e) INCENTIVES FOR USE OF CENTERS.—Entities under a contract under this section may furnish additional services (at no cost to an individual entitled to benefits under this title) or waive cost-sharing, subject to the approval of the Secretary.

"(f) LIMIT ON NUMBER OF CENTERS.—The Secretary shall limit the number of centers in a geographic area to the number needed to meet projected demand for contracted services.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to services furnished on or after October 1, 1997.

SEC. 4742. MEDICARE PART B SPECIAL ENROLLMENT PERIOD AND WAIVER OF PART B LATE ENROLLMENT PENALTY AND MEDIGAP SPECIAL OPEN ENROLLMENT PERIOD FOR CERTAIN MILITARY RETIREES AND DEPENDENTS.

(a) MEDICARE PART B SPECIAL ENROLLMENT PERIOD; WAIVER OF PART B PENALTY FOR LATE ENROLLMENT.—

(1) IN GENERAL.—In the case of any eligible individual (as defined in subsection (c)), the Secretary of Health and Human Services shall provide for a special enrollment period during which the individual may enroll under part B of title XVIII of the Social Security Act. Such period shall be for a period of 6 months and shall begin with the first month that begins at least 45 days after the date of the enactment of this Act.

(2) COVERAGE PERIOD.—In the case of an eligible individual who enrolls during the special enrollment period provided under paragraph (1), the coverage period under part B of title XVIII of the Social Security Act shall begin on the first day of the month following the month in which the individual enrolls.

(3) WAIVER OF PART B LATE ENROLLMENT PENALTY.—In the case of an eligible individual who enrolls during the special enrollment period provided under paragraph (1), there shall be no increase pursuant to section 1839(b) of the Social Security Act in the monthly premium under part B of title XVIII of such Act.

(b) MEDIGAP SPECIAL OPEN ENROLLMENT PERIOD.—Notwithstanding any other provision of law, an issuer of a medicare supplemental policy (as defined in section 1882(g) of the Social Security Act)—

(1) may not deny or condition the issuance or effectiveness of a medicare supplemental policy that has a benefit package classified as "A", "B", "C", or "F" under the standards established under section 1882(p)(2) of the Social Security Act (42 U.S.C. 1395rr(p)(2)); and

(2) may not discriminate in the pricing of the policy on the basis of the individual's health status, medical condition (including both physical and mental illnesses), claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), or disability;

in the case of an eligible individual who seeks to enroll (and is enrolled) during the 6-month period described in subsection (a)(1).

(c) ELIGIBLE INDIVIDUAL DEFINED.—In this section, the term "eligible individual" means an individual—

(1) who, as of the date of the enactment of this Act, has attained 65 years of age and was eligible to enroll under part B of title XVIII of the Social Security Act, and

(2) who at the time the individual first satisfied paragraph (1) or (2) of section 1836 of the Social Security Act—

(A) was a covered beneficiary (as defined in section 1072(5) of title 10, United States Code), and

(B) did not elect to enroll (or to be deemed enrolled) under section 1837 of the Social Security Act during the individual's initial enrollment period.

The Secretary of Health and Human Services shall consult with the Secretary of Defense in the identification of eligible individuals.

SEC. 4743. COMPETITIVE BIDDING FOR CERTAIN ITEMS AND SERVICES.

(a) ESTABLISHMENT OF DEMONSTRATION.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish and operate over a 2-year period a demonstration project in 2 geographic regions selected by the Secretary under which (notwithstanding any provision of title XVIII of the Social Security Act to the contrary) the amount of payment made under the medicare program for a selected item or service furnished in the region shall be equal to the price determined pursuant to a competitive bidding process which meets the requirements of subsection (b).

(b) REQUIREMENTS FOR COMPETITIVE BIDDING PROCESS.—The competitive bidding process used under the demonstration project under this section shall meet such requirements as the Secretary may impose to ensure the cost-effective delivery to medicare beneficiaries in the project region of items and services of high quality.

(c) DETERMINATION OF SELECTED ITEMS OR SERVICES.—The Secretary shall select items and services to be subject to the demonstration project under this section if the Secretary determines that the use of competitive bidding with respect to the item or service under the project will be appropriate and cost-effective. In determining the items or services to be selected, the Secretary shall consult with an advisory taskforce which includes representatives of providers and suppliers of items and services (including small business providers and suppliers) in each geographic region in which the project will be effective.

Subtitle I—Medical Liability Reform

CHAPTER 1—GENERAL PROVISIONS

SEC. 4801. FEDERAL REFORM OF HEALTH CARE LIABILITY ACTIONS.

(a) APPLICABILITY.—This subtitle governs any health care liability action brought in any State or Federal court, except that this subtitle shall not apply to an action for damages arising from a vaccine-related injury or death to the extent that title XXI of the Public Health Service Act applies to the action.

(b) PREEMPTION.—This subtitle shall preempt any State or applicable Federal law to the extent such law is inconsistent with the limitations contained in this subtitle. This subtitle shall not preempt any State or applicable Federal law that provides for defenses or places limitations on a person's liability in addition to those contained in this subtitle or otherwise imposes greater restrictions than those provided in this subtitle.

(c) EFFECT ON SOVEREIGN IMMUNITY AND CHOICE OF LAW OR VENUE.—Nothing in subsection (b) shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(d) AMOUNT IN CONTROVERSY.—In an action to which this subtitle applies and which is brought under section 1332 of title 28, United States Code, the amount of noneconomic damages or punitive damages, and attorneys' fees or costs, shall not be included in determining whether the matter in controversy exceeds the sum or value of $50,000.

(e) FEDERAL COURT JURISDICTION NOT ESTABLISHED ON FEDERAL QUESTION GROUNDS.—Nothing in this subtitle shall be construed to establish any jurisdiction in the district courts of the United States over health care liability actions on the basis of section 1331 or 1337 of title 28, United States Code.

SEC. 4802. DEFINITIONS.

As used in this subtitle:

(1) ACTUAL DAMAGES.—The term "actual damages" means damages awarded to pay for economic loss.

(2) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term "alternative dispute resolution system" or "ADR" means a system established under Federal or State law that provides for the resolution of health care liability claims in a manner other than through health care liability actions.

(3) CLAIMANT.—The term "claimant" means any person who brings a health care liability action and any person on whose behalf such an action is brought. If such action is brought through or on behalf of an estate, the term includes the claimant's decedent. If such action is brought through or on behalf of a minor or incompetent, the term includes the claimant's legal guardian.

(4) CLEAR AND CONVINCING EVIDENCE.—The term "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established, except that such measure or degree of proof is more than that required under preponderance of the evidence but less than that required for proof beyond a reasonable doubt.

(5) COLLATERAL SOURCE PAYMENTS.—The term "collateral source payments" means any amount paid or reasonably likely to be paid in the future to or on behalf of a claimant, or any service, product, or other benefit provided or reasonably likely to be provided in the future to or on behalf of a claimant, as a result of an injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident or workers' compensation Act;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(6) DEVICE.—The term "device" has the same meaning given such term in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(7) DRUG.—The term "drug" has the same meaning given such term in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)).

(8) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities), to the extent recovery for such loss is allowed under applicable State or Federal law.

(9) HARM.—The term "harm" means—

(A) any physical injury, illness, or death of the claimant, or

(B) any mental anguish or emotional injury to the claimant caused by or causing the claimant physical injury or illness.

(10) HEALTH CARE LIABILITY ACTION.—The term "health care liability action" means a

civil action brought in a State or Federal court against a health care provider, an entity which is obligated to provide or pay for health benefits under any health plan (including any person or entity acting under a contract or arrangement to provide or administer any health benefit), or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, in which the claimant alleges a health care liability claim.

(11) HEALTH CARE LIABILITY CLAIM.—The term "health care liability claim" means a claim in which the claimant alleges that harm was caused by the provision of (or the failure to provide) health care services or the use of a medical product, regardless of the theory of liability on which the claim is based.

(12) HEALTH CARE PROVIDER.—The term "health care provider" means any individual, organization, or institution that is engaged in the delivery of health care services in a State and that is required by the laws or regulations of the State to be licensed or certified by the State to engage in the delivery of such services in the State.

(13) MANUFACTURER.—The term "manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who (i) designs or formulates the product (or component part of the product), or (ii) has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes or constructs and designs, or formulates, or has engaged another person to design or formulate, an aspect of the product (or component part of the product) made by another person; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the user of the product.

(14) NONECONOMIC DAMAGES.—The term "noneconomic damages" means damages paid to an individual for pain and suffering, inconvenience, emotional distress, mental anguish, loss of society and companionship, injury to reputation, humiliation, and other subjective, nonpecuniary losses.

(15) PERSON.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.

(16) PRODUCT SELLER.—

(A) IN GENERAL.—The term "product seller" means a person who in the course of a business conducted for that purpose—

(i) sells, distributes, rents, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce; or

(ii) installs, repairs, refurbishes, reconditions, or maintains the harm-causing aspect of the product.

(B) EXCLUSION.—The term "product seller" does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the lessor does not initially select the leased product and does not during the lease term ordinarily control the daily operations and maintenance of the product.

(17) PUNITIVE DAMAGES.—The term "punitive damages" means damages awarded against any person not to compensate for actual injury suffered, but to punish or deter such person or others from engaging in similar behavior in the future.

(18) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territories of the Pacific Islands, and any other territory or possession of the United States or any political subdivision of any of the foregoing.

SEC. 4803. EFFECTIVE DATE.

This subtitle will apply to any health care liability action brought in a Federal or State court and to any health care liability claim subject to an alternative dispute resolution system, that is initiated on or after the date of enactment of this subtitle.

CHAPTER 2—UNIFORM STANDARDS FOR HEALTH CARE LIABILITY ACTIONS

SEC. 4811. STATUTE OF LIMITATIONS.

(a) GENERAL RULE.—Except as provided in subsection (b), a health care liability action may be filed not later than 2 years after the date on which the claimant discovered or, in the exercise of reasonable care, should have discovered—

(1) the harm that is the subject of the action; and

(2) the cause of the harm.

(b) EXCEPTION.—A person with a legal disability (as determined under applicable law) may file a health care liability action not later than 2 years after the date on which the person ceases to have the legal disability.

(c) TRANSITIONAL PROVISION RELATING TO EXTENSION OF PERIOD FOR BRINGING CERTAIN ACTIONS.—If any provision of subsection (a) or (b) shortens the period during which a health care liability action could be otherwise brought pursuant to another provision of law, the claimant may, notwithstanding subsections (a) and (b), bring the health care liability action not later than 2 years after the date of enactment of this Act.

SEC. 4812. CALCULATION AND PAYMENT OF DAMAGES.

(a) TREATMENT OF NONECONOMIC DAMAGES.—

(1) LIMITATION ON NONECONOMIC DAMAGES.—The total amount of noneconomic damages that may be awarded to a claimant for harm which is the subject of a health care liability action may not exceed $250,000, regardless of the number of parties against whom the action is brought or the number of actions brought with respect to the injury.

(2) FAIR SHARE RULE FOR NONECONOMIC DAMAGES.—

(A) GENERAL RULE.—In a health care liability action, the liability of each defendant for noneconomic damages shall be several only and shall not be joint.

(B) AMOUNT OF LIABILITY.—

(i) IN GENERAL.—Each defendant shall be liable only for the amount of noneconomic damages attributable to the defendant in direct proportion to the percentage of responsibility of the defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which the defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(ii) PERCENTAGE OF RESPONSIBILITY.—For purposes of determining the amount of noneconomic damages attributable to a defendant under this section, the trier of fact shall determine the percentage of responsibility of each person responsible for the claimant's harm, whether or not such person is a party to the action.

(b) TREATMENT OF PUNITIVE DAMAGES.—

(1) GENERAL RULE.—Punitive damages may, to the extent permitted by applicable law, be awarded in a health care liability action against a defendant if the claimant establishes by clear and convincing evidence that the harm suffered was result of conduct manifesting a conscious, flagrant indifference to the rights or safety of others.

(2) REQUIRED PROPORTIONALITY.—The amount of punitive damages that may be awarded in a health care liability action shall not exceed 3 times the amount of damages awarded to the claimant for economic loss, or $250,000, whichever is greater. This subsection shall be applied by the court, and application of this subsection shall not be disclosed to the jury.

(c) BIFURCATION AT REQUEST OF ANY PARTY.—

(1) IN GENERAL.—At the request of any party the trier of fact in any action that is subject to this section shall consider in a separate proceeding, held subsequent to the determination of the amount of compensatory damages, whether punitive damages are to be awarded for the harm that is the subject of the action and the amount of the award.

(2) INADMISSIBILITY OF EVIDENCE RELATIVE ONLY TO A CLAIM OF PUNITIVE DAMAGES IN A PROCEEDING CONCERNING COMPENSATORY DAMAGES.—If any party requests a separate proceeding under paragraph (1), in a proceeding to determine whether the claimant may be awarded compensatory damages, any evidence, argument, or contention that is relevant only to the claim of punitive damages, as determined by applicable law, shall be inadmissible.

(d) DRUGS AND DEVICES.—

(1)(A) Punitive damages shall not be awarded against a manufacturer or product seller of a drug or device which caused the claimant's harm where—

(i) such drug or device was subject to premarket approval by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm or the adequacy of the packaging or labeling of such drug or device, and such drug or device was approved by the Food and Drug Administration; or

(ii) the drug or device is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

(B) Subparagraph (A) shall not apply in any case in which the defendant, before or after premarket approval of a drug or device—

(i) intentionally and wrongfully withheld from or misrepresented to the Food and Drug Administration information concerning such drug or device required to be submitted under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262) that is material and relevant to the harm suffered by the claimant, or

(ii) made an illegal payment to an official or employee of the Food and Drug Administration for the purpose of securing or maintaining approval of such drug or device.

(2) PACKAGING.—In a health care liability action which is alleged to relate to the adequacy of the packaging (or labeling relating to such packaging) of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer of the drug shall not be held liable for punitive damages unless the drug is found by the court by clear and convincing evidence to be substantially out of compliance with such regulations.

(e) PERIODIC PAYMENTS FOR FUTURE LOSSES.—

(1) GENERAL RULE.—In any health care liability action in which the damages awarded for future economic and noneconomic loss exceed $50,000, a person shall not be required to pay such damages in a single, lump-sum payment, but shall be permitted to make such payments periodically based on when the damages are found likely to occur, with the amount and schedule of such payments determined by the court.

(2) FINALITY OF JUDGMENT.—The judgment of the court awarding periodic payments under this subsection may not, in the absence of fraud, be reopened at any time to contest, amend, or modify the schedule or amount of the payments.

(3) LUMP-SUM SETTLEMENTS.—This subsection shall not be construed to preclude a settlement providing for a single, lump-sum payment.

(f) TREATMENT OF COLLATERAL SOURCE PAYMENTS.—

(1) INTRODUCTION INTO EVIDENCE.—In any health care liability action, any defendant may introduce evidence of collateral source payments. If a defendant elects to introduce such evidence, the claimant may introduce evidence of any amount paid or contributed or reasonably likely to be paid or contributed in the future by or on behalf of the claimant to secure the right to such collateral source payments.

(2) NO SUBROGATION.—No provider of collateral source payments shall recover any amount against the claimant or receive any lien or credit against the claimant's recovery or be equitably or legally subrogated the right of the claimant in a health care liability action. This subsection shall apply to an action that is settled as well as an action that is resolved by a fact finder.

SEC. 4813. ALTERNATIVE DISPUTE RESOLUTION.

Any ADR used to resolve a health care liability action or claim shall contain provisions relating to statute of limitations, noneconomic damages, joint and several liability, punitive damages, collateral source rule, and periodic payments which are identical to the provisions relating to such matters in this subtitle.

TITLE V—COMMITTEE ON EDUCATION AND THE WORKFORCE

Subtitle A—TANF Block Grant

SEC. 5001. WELFARE-TO-WORK GRANTS.

(a) GRANTS TO STATES.—Section 403(a) of the Social Security Act (42 U.S.C. 603(a)) is amended by adding at the end the following:

"(5) WELFARE-TO-WORK GRANTS.—

"(A) FORMULA GRANTS.—

"(i) ENTITLEMENT.—A State shall be entitled to receive from the Secretary a grant for each fiscal year specified in subparagraph (H) of this paragraph for which the State is a welfare-to-work State, in an amount that does not exceed the lesser of—

"(I) 2 times the total of the expenditures by the State (excluding qualified State expenditures (as defined in section 409(a)(7)(B)(i)) and expenditures described in section 409(a)(7)(B)(iv)) during the fiscal year for activities described in subpargraph (C)(i) of this paragraph; or

"(II) the allotment of the State under clause (iii) of this subparagraph for the fiscal year.

"(ii) WELFARE-TO-WORK STATE.—A State shall be considered a welfare-to-work State for a fiscal year for purposes of this subparagraph if the Secretary, after consultation (and the sharing of any plan or amendment thereto submitted under this clause) with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, determines that the State meets the following requirements:

"(I) The State has submitted to the Secretary (in the form of an addendum to the State plan submitted under section 402) a plan which—

"(aa) describes how, consistent with this subparagraph, the State will use any funds provided under this subparagraph during the fiscal year;

"(bb) specifies the formula to be used pursuant to clause (vi) to distribute funds in the State, and describes the process by which the formula was developed; and

"(cc) contains evidence that the plan was developed through a collaborative process that, at a minimum, included sub-State areas.

"(II) The State has provided the Secretary with an estimate of the amount that the State intends to expend during the fiscal year (excluding expenditures described in section 409(a)(7)(B)(iv)) for activities described in subparagraph (C)(i) of this paragraph.

"(III) The State has agreed to negotiate in good faith with the Secretary of Health and Human Services with respect to the substance of any evaluation under section 413(j), and to cooperate with the conduct of any such evaluation.

"(IV) The State is an eligible State for the fiscal year.

"(iii) ALLOTMENTS TO WELFARE-TO-WORK STATES.—The allotment of a welfare-to-work State for a fiscal year shall be the available amount for the fiscal year multiplied by the State percentage for the fiscal year.

"(iv) AVAILABLE AMOUNT.—As used in clause (iii), the term 'available amount' means, for a fiscal year, 95 percent of—

"(I) the amount specified in subparagraph (H) for the fiscal year; minus

"(II) the total of the amounts reserved pursuant to subparagraphs (F) and (G) for the fiscal year.

"(v) STATE PERCENTAGE.—As used in clause (iii), the term 'State percentage' means, with respect to a fiscal year, ½ of the sum of—

"(aa) the percentage represented by the number of individuals in the State whose income is less than the poverty line divided by the number of such individuals in the United States; and

"(bb) the percentage represented by the number of individuals who are adult recipients of assistance under the State program funded under this part divided by the number of individuals in the United States who are adult recipients of assistance under any State program funded under this part.

"(vi) DISTRIBUTION OF FUNDS WITHIN STATES.—

"(I) IN GENERAL.—A State to which a grant is made under this subparagraph shall distribute not less than 85 percent of the grant funds among the service delivery areas in the State, in accordance with a formula which—

"(aa) determines the amount to be distributed for the benefit of a service delivery area in proportion to the number (if any) by which the number of individuals residing in the service delivery area with an income that is less than the poverty line exceeds 5 percent of the population of the service delivery area, relative to such number for the other service delivery areas in the State, and accords a weight of not less than 50 percent to this factor;

"(bb) may determine the amount to be distributed for the benefit of a service delivery area in proportion to the number of adults residing in the service delivery area who are recipients of assistance under the State program funded under this part (whether in effect before or after the amendments made by section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act first applied to the State) for at least 30 months (whether or not consecutive) relative to the number of such adults residing in the other service delivery areas in the State; and

"(cc) may determine the amount to be distributed for the benefit of a service delivery area in proportion to the number of unemployed individuals residing in the service delivery area relative to the number of such individuals residing in the other service delivery areas in the State.

"(II) SPECIAL RULE.—Notwithstanding subclause (I), if the formula used pursuant to subclause (I) would result in the distribution of less than $100,000 during a fiscal year for the benefit of a service delivery area, then in lieu of distributing such sum in accordance with the formula, such sum shall be available for distribution under subclause (III) during the fiscal year.

"(III) PROJECTS TO HELP LONG-TERM RECIPIENTS OF ASSISTANCE INTO THE WORK FORCE.—The Governor of a State to which a grant is made under this subparagraph may distribute not more than 15 percent of the grant funds (plus any amount required to be distributed under this subclause by reason of subclause (II)) to projects that appear likely to help long-term recipients of assistance under the State program funded under this part (whether in effect before or after the amendments made by section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act first applied to the State) enter the work force.

"(vii) ADMINISTRATION.—

"(I) IN GENERAL.—A grant made under this subparagraph to a State shall be administered by the State agency that is administering, or supervising the administration of, the State program funded under this part, or by another State agency designated by the Governor of the State.

"(II) SPENDING BY PRIVATE INDUSTRY COUNCILS.—The private industry council for a service delivery area shall have sole authority, in coordination with the chief elected official (as described in section 103(c) of the Job Training Partnership Act) of the service delivery area, to expend the amounts provided for a service delivery area under subparagraph (vi)(I).

"(B) DEMONSTRATION PROJECTS.—

"(i) IN GENERAL.—The Secretary, in consultation with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, shall make grants in accordance with this subparagraph among eligible applicants based on the likelihood that the applicant can successfully make long-term placements of individuals into the work force.

"(ii) ELIGIBLE APPLICANTS.—As used in clause (i), the term 'eligible applicant' means a private industry council or a political subdivision of a State.

"(iii) DETERMINATION OF GRANT AMOUNT.—In determining the amount of a grant to be made under this subparagraph for a demonstration project proposed by an applicant, the Secretary shall provide the applicant with an amount sufficient to ensure that the project has a reasonable opportunity to be successful, taking into account the number of long-term recipients of assistance under a State program funded under this part, the level of unemployment, the job opportunities and job growth, the poverty rate, and such other factors as the Secretary deems appropriate, in the area to be served by the project.

"(iv) FUNDING.—For grants under this subparagraph for each fiscal year specified in subparagraph (H), there shall be available to the Secretary an amount equal to the sum of—

"(I) 5 percent of—

"(aa) the amount specified in subparagraph (H) for the fiscal year; minus

"(bb) the total of the amounts reserved pursuant to subparagraphs (F) and (G) for the fiscal year;

"(II) any amount available for grants under this paragraph for the immediately preceding fiscal year that has not been obligated;

"(III) any amount reserved pursuant to subparagraph (F) for the immediately preceding fiscal year that has not been obligated; and

"(IV) any available amount (as defined in subparagraph (A)(iv)) for the immediately preceding fiscal year that has not been obligated by a State or sub-State entity.

"(C) LIMITATIONS ON USE OF FUNDS.—

"(i) ALLOWABLE ACTIVITIES.—An entity to which funds are provided under this paragraph may use the funds to move into the work force recipients of assistance under the program funded under this part of the State in which the entity is located, by means of any of the following:

"(I) Job creation through public or private sector employment wage subsidies.

"(II) On-the-job training.

"(III) Contracts with job placement companies or public job placement programs.

"(IV) Job vouchers.

"(V) Job retention or support services if such services are not otherwise available.

"(ii) REQUIRED BENEFICIARIES.—An entity that operates a project with funds provided under this paragraph shall expend at least 90 percent of all funds provided to the project for the benefit of recipients of assistance under the program funded under this part of the State in which the entity is located who meet the requirements of any of the following subclauses:

"(I) The individual has received assistance under the State program funded under this part (whether in effect before or after the amendments made by section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 first apply to the State) for at least 30 months (whether or not consecutive).

"(II) At least 2 of the following apply to the recipient:

"(aa) The individual has not completed secondary school or obtained a certificate of general equivalency, and has low skills in reading and mathematics.

"(bb) The individual requires substance abuse treatment for employment.

"(cc) The individual has a poor work history.

The Secretary shall prescribe such regulations as may be necessary to interpret this subclause.

"(III) Within 12 months, the individual will become ineligible for assistance under the State program funded under this part by reason of a durational limit on such assistance, without regard to any exemption provided pursuant to section 408(a)(7)(C) that may apply to the individual.

"(iii) LIMITATION ON APPLICABILITY OF SECTION 404.—The rules of section 404, other than subsections (b), (f), and (h) of section 404, shall not apply to a grant made under this paragraph.

"(iv) PROHIBITION AGAINST PROVISION OF SERVICES BY PRIVATE INDUSTRY COUNCIL.—A private industry council may not directly provide services using funds provided under this paragraph.

"(v) PROHIBITION AGAINST USE OF GRANT FUNDS FOR ANY OTHER FUND MATCHING REQUIREMENT.—An entity to which funds are provided under this paragraph shall not use any part of the funds to fulfill any obligation of any State, political subdivision, or private industry council to contribute funds under other Federal law.

"(vi) DEADLINE FOR EXPENDITURE.—An entity to which funds are provided under this paragraph shall remit to the Secretary any part of the funds that are not expended within 3 years after the date the funds are so provided.

"(D) INDIVIDUALS WITH INCOME LESS THAN THE POVERTY LINE.—For purposes of this paragraph, the number of individuals with an income that is less than the poverty line shall be determined based on the methodology used by the Bureau of the Census to produce and publish intercensal poverty data for 1993 for States and counties.

"(E) DEFINITIONS.—As used in this paragraph:

"(i) PRIVATE INDUSTRY COUNCIL.—The term 'private industry council' means, with respect to a service delivery area, the private industry council (or successor entity) established for the service delivery area pursuant to the Job Training Partnership Act.

"(ii) SECRETARY.—The term 'Secretary' means the Secretary of Labor, except as otherwise expressly provided.

"(iii) SERVICE DELIVERY AREA.—The term 'service delivery area' shall have the meaning given such term for purposes of the Job Training Partnership Act (or successor area).

"(F) FUNDING FOR INDIAN TRIBES.—1 percent of the amount specified in subparagraph (H) for each fiscal year shall be reserved for grants to Indian tribes under section 412(a)(3).

"(G) EVALUATIONS.—0.5 percent of the amount specified in subparagraph (H) for each fiscal year shall be reserved for use by the Secretary of Health and Human Services to carry out section 413(j).

"(H) FUNDING.—The amount specified in this subparagraph is $1,500,000,000 for each of fiscal years 1998 and 1999.

"(H) FUNDING.—The amount specified in this subparagraph is—

"(i) $750,000,000 for fiscal year 1998;

"(ii) $1,250,000,000 for fiscal year 1999; and

"(iii) $1,000,000,000 for fiscal year 2000.

"(I) BUDGET SCORING.—Notwithstanding section 457(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985, the baseline shall assume that no grant shall be made under this paragraph or under section 412(a)(3) after fiscal year 2001.".

(b) GRANTS TO TERRITORIES.—Section 1108(a) of such Act (42 U.S.C. 1308(a)) is amended by inserting "(except section 403(a)(5))" after "title IV".

(c) GRANTS TO INDIAN TRIBES.—Section 412(a) of such Act (42 U.S.C. 612(a)) is amended by adding at the end the following:

"(3) WELFARE-TO-WORK GRANTS.—

"(A) IN GENERAL.—The Secretary shall make a grant in accordance with this paragraph to an Indian tribe for each fiscal year specified in section 403(a)(5)(H) for which the Indian tribe is a welfare-to-work tribe, in such amount as the Secretary deems appropriate, subject to subparagraph (B) of this paragraph.

"(B) WELFARE-TO-WORK TRIBE.—An Indian tribe shall be considered a welfare-to-work tribe for a fiscal year for purposes of this paragraph if the Indian tribe meets the following requirements:

"(i) The Indian tribe has submitted to the Secretary (in the form of an addendum to the tribal family assistance plan, if any, of the Indian tribe) a plan which describes how, consistent with section 403(a)(5), the Indian tribe will use any funds provided under this paragraph during the fiscal year.

"(ii) The Indian tribe has provided the Secretary with an estimate of the amount that the Indian tribe intends to expend during the fiscal year (excluding tribal expenditures described in section 409(a)(7)(B)(iv)) for activities described in section 403(a)(5)(C)(i).

"(iii) The Indian tribe has agreed to negotiate in good faith with the Secretary of Health and Human Services with respect to the substance of any evaluation under section 413(j), and to cooperate with the conduct of any such evaluation.

"(C) LIMITATIONS ON USE OF FUNDS.—Section 403(a)(5)(C) shall apply to funds provided to Indian tribes under this paragraph in the same manner in which such section applies to funds provided under section 403(a)(5).".

(d) FUNDS RECEIVED FROM GRANTS TO BE DISREGARDED IN APPLYING DURATIONAL LIMIT ON ASSISTANCE.—Section 408(a)(7) of such Act (42 U.S.C. 608(a)(7)) is amended by adding at the end the following:

"(G) INAPPLICABILITY TO WELFARE-TO-WORK GRANTS AND ASSISTANCE.—For purposes of subparagraph (A) of this paragraph, a grant made under section 403(a)(5) shall not be considered a grant made under section 403, and assistance from funds provided under section 403(a)(5) shall not be considered assistance.".

(e) EVALUATIONS.—Section 413 of such Act (42 U.S.C. 613) is amended by adding at the end the following:

"(j) EVALUATION OF WELFARE-TO-WORK PROGRAMS.—The Secretary—

"(1) shall, in consultation with the Secretary of Labor, develop a plan to evaluate how grants made under sections 403(a)(5) and 412(a)(3) have been used; and

"(2) may evaluate the use of such grants by such grantees as the Secretary deems appropriate, in accordance with an agreement entered into with the grantees after good-faith negotiations.".

SEC. 5002. CLARIFICATION OF LIMITATION ON NUMBER OF PERSONS WHO MAY BE TREATED AS ENGAGED IN WORK BY REASON OF PARTICIPATION IN EDUCATIONAL ACTIVITIES.

(a) IN GENERAL.—Section 407(c)(2)(D) of the Social Security Act (42 U.S.C. 607(c)(2)(D)) is amended to read as follows:

"(D) LIMITATION ON NUMBER OF PERSONS WHO MAY BE TREATED AS ENGAGED IN WORK BY REASON OF PARTICIPATION IN EDUCATIONAL ACTIVITIES.—For purposes of determining monthly participation rates under paragraphs (1)(B)(i) and (2)(B) of subsection (b), not more than 20 percent of the number of individuals in all families and in 2-parent families, respectively, in a State who are treated as engaged in work for a month may

consist of individuals who are determined to be engaged in work for the month by reason of participation in vocational educational training, or deemed to be engaged in work for the month by reason of subparagraph (C) of this paragraph.".

(b) RETROACTIVITY.—The amendment made by subsection (a) of this section shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 5003. PENALTY FOR FAILURE OF STATE TO REDUCE ASSISTANCE FOR RECIPIENTS REFUSING WITHOUT GOOD CAUSE TO WORK.

(a) IN GENERAL.—Section 409(a) of the Social Security Act (42 U.S.C. 609(a)) is amended by adding at the end the following:

"(13) PENALTY FOR FAILURE TO REDUCE ASSISTANCE FOR RECIPIENTS REFUSING WITHOUT GOOD CAUSE TO WORK.—

"(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 403 in a fiscal year has violated section 407(e) during the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not less than 1 percent and not more than 5 percent of the State family assistance grant.

"(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of noncompliance.".

(b) RETROACTIVITY.—The amendment made by subsection (a) of this section shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 5004. RULES GOVERNING EXPENDITURE OF FUNDS FOR WORK EXPERIENCE AND COMMUNITY SERVICE PROGRAMS.

(a) IN GENERAL.—Section 407 of the Social Security Act (42 U.S.C. 607) is amended by adding at the end the following:

"(j) RULES GOVERNING EXPENDITURE OF FUNDS FOR WORK EXPERIENCE AND COMMUNITY SERVICE PROGRAMS.—

"(1) IN GENERAL.—To the extent that a State to which a grant is made under section 403(a)(5) or any other provision of section 403 uses the grant to establish or operate a work experience or community service program, the State may establish and operate the program in accordance with this subsection.

"(2) PURPOSE.—The purpose of a work experience or community experience program is to provide experience or training for individuals not able to obtain employment in order to assist them to move to regular employment. Such a program shall be designed to improve the employability of participants through actual work experience to enable individuals participating in the program to move promptly into regular public or private employment. Such a program shall not place individuals in private, for-profit entities.

"(3) LIMITATION ON PROJECTS THAT MAY BE UNDERTAKEN.—A work experience or community service program shall be limited to projects which serve a useful public purpose in fields such as health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and day care, and other purposes identified by the State.

"(4) MAXIMUM HOURS OF PARTICIPATION PER MONTH.—A State that elects to establish a work experience or community service program shall operate the program so that each participant participates in the program with the maximum number of hours that any such individual may be required to participate in any month being a number equal to—

"(A)(i) the amount of assistance provided during the month to the family of which the individual is a member under the State program funded under this part; plus

"(ii) the dollar value equivalent of any benefits provided during the month to the household of which the individual is a member under the food stamp program under the Food Stamp Act of 1977; minus

"(iii) any amount collected by the State as child support with respect to the family that is retained by the State; divided by

"(B) the greater of the Federal minimum wage or the applicable State minimum wage.

"(5) MAXIMUM HOURS OF PARTICIPATION PER WEEK.—A State that elects to establish a work experience or community service program may not require any participant in any such program to participate in any such program for a combined total of more than 40 hours per week.

"(6) RULE OF INTERPRETATION.—This subsection shall not be construed as authorizing the provision of assistance under a State program funded under this part as compensation for work performed, nor shall a participant be entitled to a salary or to any other work or training expense provided under any other provision of law by reason of participation in a work experience or community service program described in this subsection.".

(b) RETROACTIVITY.—The amendment made by subsection (a) of this section shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 5005. STATE OPTION TO TAKE ACCOUNT OF CERTAIN WORK ACTIVITIES OF RECIPIENTS WITH SUFFICIENT PARTICIPATION IN WORK EXPERIENCE OR COMMUNITY SERVICE PROGRAMS.

(a) IN GENERAL.—Section 407(c) of the Social Security Act (42 U.S.C. 607(c)) is amended by adding at the end the following:

"(3) STATE OPTION TO TAKE ACCOUNT OF CERTAIN WORK ACTIVITIES OF RECIPIENTS WITH SUFFICIENT PARTICIPATION IN WORK EXPERIENCE OR COMMUNITY SERVICE PROGRAMS.—Notwithstanding paragraphs (1) and (2) of this subsection and subsection (d)(8), for purposes of determining monthly participation rates under paragraphs (1)(B)(i) and (2)(B) of subsection (b), an individual who, during a month, has participated in a work experience or community service program operated in accordance with subsection (j), for the maximum number of hours that the individual may be required to participate in such a program during the month shall be treated as engaged in work for the month if, during the month, the individual has participated in any other work activity for a number of hours that is not less than the number of hours required by subsection (c)(1) for the month minus such maximum number of hours.".

(b) RETROACTIVITY.—The amendment made by subsection (a) of this section shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 5006. WORKER PROTECTIONS.

Section 407(f) of the Social Security Act (42 U.S.C. 607(f)) is amended to read as follows:

"(f) WORKER PROTECTIONS.—

"(1) NONDISPLACEMENT IN WORK ACTIVITIES.—

"(A) GENERAL PROHIBITION.—Subject to this paragraph, an adult in a family receiving assistance under a State program funded under this part attributable to funds provided by the Federal Government may fill a vacant employment position in order to engage in a work activity.

"(B) PROHIBITION AGAINST VIOLATION OF CONTRACTS.—A work activity shall not violate an existing contract for services or collective bargaining agreement.

"(C) OTHER PROHIBITIONS.—An adult participant in a work activity shall not be employed or assigned—

"(i) when any other individual is on layoff from the same or any substantially equivalent job; or

"(ii) if the employer has terminated the employment of any regular employee or otherwise caused an involuntary reduction if its workforce with the intention of filling the vacancy so created with the participant.

"(2) HEALTH AND SAFETY.—Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees shall be equally applicable to working conditions of participants engaged in a work activity.

"(3) NONDISCRIMINATION.—In addition to the protections provided under the provisions of law specified in section 408(c), an individual may not be discriminated against with respect to participation in work activities by reason of gender.

"(4) GRIEVANCE PROCEDURE.—

"(A) IN GENERAL.—Each State to which a grant is made under section 403 shall establish and maintain a procedure for grievances or complaints from employees alleging violations of paragraph (1) and participants in work activities alleging violations of paragraph (1), (2), or (3).

"(B) HEARING.—The procedure shall include an opportunity for a hearing.

"(C) REMEDIES.—The procedure shall include remedies for violation of paragraph (1), (2), or (3), which may include—

"(i) prohibition against placement of a participant with an employer that has violated paragraph (1), (2), or (3);

"(ii) where applicable, reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions and privileges of employment; and

"(iii) where appropriate, other equitable relief.

"(5) NONPREEMPTION OF STATE NONDISPLACEMENT LAWS.—The provisions of this subsection relating to nondisplacement of employees shall not be construed to preempt any provision of State law relating to nondisplacement of employees that affords greater protections to employees than is afforded by such provisions of this subsection.".

Subtitle B—Higher Education Programs

SEC. 5101. MANAGEMENT AND RECOVERY OF RESERVES.

(a) AMENDMENT.—Section 422 of the Higher Education Act of 1965 (20 U.S.C. 1072) is amended by adding after subsection (g) the following new subsection:

"(h) RECALL OF RESERVES; LIMITATIONS ON USE OF RESERVE FUNDS AND ASSETS.—(1) Notwithstanding any other provision of law, the Secretary shall, except as otherwise provided in this subsection, recall $1,000,000,000 from the reserve funds held by guaranty agencies on September 1, 2002.

"(2) Funds recalled by the Secretary under this subsection shall be deposited in the Treasury.

"(3) The Secretary shall require each guaranty agency to return reserve funds under

paragraph (1) based on such agency's required share of recalled reserve funds held by guaranty agencies as of September 30, 1996. For purposes of this paragraph, a guaranty agency's required share of recalled reserve funds shall be determined as follows:

"(A) The Secretary shall compute each agency's reserve ratio by dividing (i) the amount held in such agency's reserve funds as of September 30, 1996 (but reflecting later accounting or auditing adjustments approved by the Secretary), by (ii) the original principal amount of all loans for which such agency has an outstanding insurance obligation as of such date.

"(B) If the reserve ratio of any agency as computed under subparagraph (A) exceeds 2.0 percent, the agency's required share shall include so much of the amounts held in such agency's reserve fund as exceed a reserve ratio of 2.0 percent.

"(C) If any additional amount is required to be recalled under paragraph (1) (after deducting the total of the required shares calculated under subparagraph (B)), the agencies' required shares shall include additional amounts—

"(i) determined by imposing on each such agency an equal percentage reduction in the amount of each agency's reserve fund remaining after deduction of the amount recalled under subparagraph (B); and

"(ii) the total of which equals the additional amount that is required to be recalled under paragraph (1) (after deducting the total of the required shares calculated under subparagraph (B)).

"(4) Within 90 days after the beginning of each of fiscal years 1998 through 2002, each guaranty agency shall transfer a portion of each agency's required share determined under paragraph (3) to a restricted account established by the guaranty agency that is of a type selected by the guaranty agency with the approval of the Secretary. Funds transferred to such restricted accounts shall be invested in obligations issued or guaranteed by the United States or in other similarly low-risk securities. A guaranty agency shall not use the funds in such a restricted account for any purpose without the express written permission of the Secretary, except that a guaranty agency may use the earnings from such restricted account to assist in meeting the agency's operational expenses under this part. In each of fiscal years 1998 through 2002, each agency shall transfer its required share to such restricted account in 5 equal annual installments, except that—

"(A) a guarantee agency that has a reserve ratio (as computed under subparagraph (3)(A)) equal to or less than 1.10 percent may transfer its required share to such account in 4 equal installments beginning in fiscal year 1999; and

"(B) a guarantee agency may transfer such required share to such account in accordance with such other payment schedules as are approved by the Secretary.

"(5) If, on September 1, 2002, the total amount in the restricted accounts described in paragraph (4) is less than the amount the Secretary is required to recall under paragraph (1), the Secretary may require the return of the amount of the shortage from other reserve funds held by guaranty agencies under procedures established by the Secretary.

"(6) The Secretary may take such reasonable measures, and require such information, as may be necessary to ensure that guaranty agencies comply with the requirements of this subsection. Notwithstanding any other provision of this part, if the Secretary determines that a guaranty agency is not in compliance with the requirements of this subsection, such agency may not receive any other funds under this part until the Secretary determines that such agency is in compliance.

"(7) The Secretary shall not have any authority to direct a guaranty agency to return reserve funds under subsection (g)(1)(A) during the period from the date of enactment of this subsection through September 30, 2002, and any reserve funds otherwise returned under subsection (g)(1) during such period shall be treated as amounts recalled under this subsection and shall not be available under subsection (g)(4).

"(8) For purposes of this subsection, the term 'reserve funds' when used with respect to a guaranty agency—

"(A) includes any cash reserve funds held by the guaranty agency, or held by, or under the control of, any other entity; and

"(B) does not include buildings, equipment, or other nonliquid assets.".

(b) CONFORMING AMENDMENT.—Section 428(c)(9)(A) of the Higher Education Act of 1965 (20 U.S.C. 1078(c)(9)(A)) is amended—

(1) in the first sentence, by striking "for the fiscal year of the agency that begins in 1993"; and

(2) by striking the third sentence.

SEC. 5102. REPEAL OF DIRECT LOAN ORIGINATION FEES TO INSTITUTIONS OF HIGHER EDUCATION.

Section 452 of the Higher Education Act of 1965 (20 U.S.C. 1087b) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

SEC. 5103. FUNDS FOR ADMINISTRATIVE EXPENSES.

Subsection (a) of section 458 of the Higher Education Act of 1965 (20 U.S.C. 1087h(a)) is amended to read as follows:

"(a) IN GENERAL.—(1) Each fiscal year, there shall be available to the Secretary from funds not otherwise appropriated, funds to be obligated for—

"(A) administrative costs under this part and part B, including the costs of the direct student loan programs under this part, and

"(B) administrative cost allowances payable to guaranty agencies under part B and calculated in accordance with paragraph (2), not to exceed (from such funds not otherwise appropriated) $532,000,000 in fiscal year 1998, $610,000,000 in fiscal year 1999, $705,000,000 in fiscal year 2000, $750,000,000 in fiscal year 2001, and $750,000,000 in fiscal year 2002. Administrative cost allowances under subparagraph (B) of this paragraph shall be paid quarterly and used in accordance with section 428(f). The Secretary may carry over funds available under this section to a subsequent fiscal year.

"(2) Administrative cost allowances payable to guaranty agencies under paragraph (1)(B) shall be calculated on the basis of 0.85 percent of the total principal amount of loans upon which insurance is issued on or after the date of enactment of the Balanced Budget Act of 1997, except that such allowances shall not exceed—

"(A) $170,000,000 for each of the fiscal years 1998 and 1999; or

"(B) $150,000,000 for each of the fiscal years 2000, 2001, and 2002.".

SEC. 5104. SECRETARY'S EQUITABLE SHARE OF COLLECTIONS ON CONSOLIDATED DEFAULTED LOANS.

Section 428(c)(6)(A) of the Higher Education Act of 1965 (20 U.S.C. 1078(c)(6)(A)) is amended—

(1) in the matter preceding clause (i), by striking "made by the borrower" and inserting "made by or on behalf of the borrower, including payments made to discharge loans made under this title to obtain a consolidation loan pursuant to this part or part D,"; and

(2) in clause (ii), by striking "(ii) an amount equal to 27 percent of such payments (subject to subparagraph (D) of this paragraph) for costs related" and inserting the following:

"(ii) an amount equal to 27 percent of such payments for covered costs, except that the amount determined under this clause for such covered costs shall be (I) 18.5 percent of such payments for defaulted loans consolidated pursuant to this part or part D on or after July 1, 1997; and (II) 18.5 percent of such payments for defaulted loans consolidated pursuant to this part or part D on or after the date of enactment of the Higher Education Amendments of 1992 with respect to any guaranty agency that has, after such date, made deductions from such payments under this clause (ii) in an amount equal to 18.5 percent of such payments.

For purposes of clause (ii) of this subparagraph, the term 'covered costs' means costs related".

SEC. 5105. EXTENSION OF STUDENT AID PROGRAMS.

Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended—

(1) in section 424(a), by striking "1998." and "2002." and inserting "2002." and "2006.", respectively;

(2) in section 428(a)(5), by striking "1998," and "2002." and inserting "2002," and "2006.", respectively; and

(3) in section 428C(e), by striking "1998." and inserting "2002.".

Subtitle C—Repeal of Smith-Hughes Vocational Education Act

SEC. 5201. REPEAL OF SMITH-HUGHES VOCATIONAL EDUCATION ACT.

The Act of February 23, 1917 (39 Stat. 929; 20 U.S.C. 11) (commonly known as the "Smith-Hughes Vocational Education Act") is repealed.

Subtitle D—Expansion of Portability and Health Insurance Coverage

SEC. 5301. SHORT TITLE OF SUBTITLE.

This subtitle may be cited as the "Expansion of Portability and Health Insurance Coverage Act of 1997".

SEC. 5302. RULES GOVERNING ASSOCIATION HEALTH PLANS.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

"PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

"SEC. 801. ASSOCIATION HEALTH PLANS.

"(a) IN GENERAL.—For purposes of this part, the term 'association health plan' means a group health plan—

"(1) whose sponsor is (or is deemed under this part to be) described in subsection (b), and

"(2) under which at least one option of health insurance coverage offered by a health insurance issuer (which may include, among other options, managed care options, point of service options, and preferred provider options) is provided to participants and beneficiaries.

"(b) SPONSORSHIP.—The sponsor of a group health plan is described in this subsection if such sponsor—

"(1) is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for

periodic meetings on at least an annual basis, as a trade association, an industry association (including a rural electric cooperative association or a rural telephone cooperative association), a professional association, or a chamber of commerce (or similar business group, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining or providing medical care,

"(2) is established as a permanent entity which receives the active support of its members and collects from its members on a periodic basis dues or payments necessary to maintain eligibility for membership in the sponsor, and

"(3) does not condition such dues or payments or coverage under the plan on the basis of health status-related factors with respect to the employees of its members (or affiliated members), or the dependents of such employees, and does not condition such dues or payments on the basis of group health plan participation.

Any sponsor consisting of an association of entities which meet the requirements of paragraphs (1) and (2) shall be deemed to be a sponsor described in this subsection.

"SEC. 802. CERTIFICATION OF ASSOCIATION HEALTH PLANS.

"(a) IN GENERAL.—The Secretary shall prescribe by regulation a procedure under which, subject to subsection (b), the Secretary shall certify association health plans which apply for certification as meeting the requirements of this part.

"(b) STANDARDS.—Under the procedure prescribed pursuant to subsection (a), the Secretary shall certify an association health plan as meeting the requirements of this part only if the Secretary is satisfied that—

"(1) such certification—

"(A) is administratively feasible,

"(B) is not adverse to the interests of the individuals covered under the plan, and

"(C) is protective of the rights and benefits of the individuals covered under the plan, and

"(2) the applicable requirements of this part are met (or, upon the date on which the plan is to commence operations, will be met) with respect to the plan.

"(c) REQUIREMENTS APPLICABLE TO CERTIFIED PLANS.—An association health plan with respect to which certification under this part is in effect shall meet the applicable requirements of this part, effective on the date of certification (or, if later, on the date on which the plan is to commence operations).

"(d) REQUIREMENTS FOR CONTINUED CERTIFICATION.—The Secretary may provide by regulation for continued certification under this part, including requirements relating to any commencement, by an association health plan which has been certified under this part, of a benefit option which does not consist of health insurance coverage.

"(e) CLASS CERTIFICATION FOR FULLY-INSURED PLANS.—The Secretary shall establish a class certification procedure for association health plans under which all benefits consist of health insurance coverage. Under such procedure, the Secretary shall provide for the granting of certification under this part to the plans in each class of such association health plans upon appropriate filing under such procedure in connection with plans in such class and payment of the prescribed fee under section 807(a).

"SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.

"(a) SPONSOR.—The requirements of this subsection are met with respect to an association health plan if—

"(1) the sponsor (together with its immediate predecessor, if any) has met (or is deemed under this part to have met) for a continuous period of not less than 3 years ending with the date of the application for certification under this part, the requirements of paragraphs (1) and (2) of section 801(b), and

"(2) the sponsor meets (or is deemed under this part to meet) the requirements of section 801(b)(3).

"(b) BOARD OF TRUSTEES.—The requirements of this subsection are met with respect to an association health plan if the following requirements are met:

"(1) FISCAL CONTROL.—The plan is operated, pursuant to a trust agreement, by a board of trustees which has complete fiscal control over the plan and which is responsible for all operations of the plan.

"(2) RULES OF OPERATION AND FINANCIAL CONTROLS.—The board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the plan and to meet all requirements of this title applicable to the plan.

"(3) RULES GOVERNING RELATIONSHIP TO PARTICIPATING EMPLOYERS AND TO CONTRACTORS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business.

"(B) LIMITATION.—

"(i) GENERAL RULE.—Except as provided in clauses (ii) and (iii), no such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the plan.

"(ii) LIMITED EXCEPTION FOR PROVIDERS OF SERVICES SOLELY ON BEHALF OF THE SPONSOR.—Officers or employees of a sponsor which is a service provider (other than a contract administrator) to the plan may be members of the board if they constitute not more than 25 percent of the membership of the board and they do not provide services to the plan other than on behalf of the sponsor.

"(iii) TREATMENT OF PROVIDERS OF MEDICAL CARE.—In the case of a sponsor which is an association whose membership consists primarily of providers of medical care, clause (i) shall not apply in the case of any service provider described in subparagraph (A) who is a provider of medical care under the plan.

"(C) SOLE AUTHORITY.—The board has sole authority to approve applications for participation in the plan and to contract with a service provider to administer the day-to-day affairs of the plan.

"(c) TREATMENT OF FRANCHISE NETWORKS.—In the case of a group health plan which is established and maintained by a franchiser for a franchise network consisting of its franchisees—

"(1) the requirements of subsection (a) and section 801(a)(1) shall be deemed met if such requirements would otherwise be met if the franchiser were deemed to be the sponsor referred to in section 801(b), such network were deemed to be an association described in section 801(b), and each franchisee were deemed to be a member (of the association and the sponsor) referred to in section 801(b), and

"(2) the requirements of section 804(a)(1) shall be deemed met.

"(d) CERTAIN COLLECTIVELY BARGAINED PLANS.—

"(1) IN GENERAL.—In the case of a group health plan described in paragraph (2)—

"(A) the requirements of subsection (a) and section 801(a)(1) shall be deemed met,

"(B) the joint board of trustees shall be deemed a board of trustees with respect to which the requirements of subsection (b) are met, and

"(C) the requirements of section 804 shall be deemed met.

"(2) REQUIREMENTS.—A group health plan is described in this paragraph if—

"(A) the plan is a multiemployer plan,

"(B) the plan is in existence on April 1, 1997, and would be described in section 3(40)(A)(i) but solely for the failure to meet the requirements of section 3(40)(C)(ii) or (to the extent provided in regulations of the Secretary) solely for the failure to meet the requirements of subparagraph (D) of section 3(40), or

"(C)(i) the plan is in existence on April 1, 1997, has been in existence as of such date for at least 3 years, meets the requirements of paragraphs (2) and (3) of section 801(b), and would be described in section 3(40)(A)(i) but solely for the failure to meet the requirements of subparagraph (C)(i) or (C)(ii), and

"(ii) individuals who are members of the plan sponsor—

"(I) participate by elections in the organizational governance of the plan sponsor,

"(II) are eligible for appointment as trustee of the plan or for participation in the appointment of trustees of the plan, and

"(III) if covered under the plan, have full rights under the plan of a participant in an employee welfare benefit plan.

"(e) CERTAIN PLANS NOT MEETING SINGLE EMPLOYER REQUIREMENT.—

"(1) IN GENERAL.—In any case in which the majority of the employees covered under a group health plan are employees of a single employer (within the meaning of clauses (i) and (ii) of section 3(40)(B)), if all other employees covered under the plan are employed by employers who are related to such single employer—

"(A) the requirements of subsection (a) and section 801(a)(1) shall not apply if such single employer is the sponsor of the plan, and

"(B) the requirements of subsection (b) shall be deemed met if the board of trustees is the named fiduciary in connection with the plan.

"(2) RELATED EMPLOYERS.—For purposes of paragraph (1), employers are 'related' if there is among all such employers a common ownership interest or a substantial commonality of business operations based on common suppliers or customers.

"SEC. 804. PARTICIPATION AND COVERAGE REQUIREMENTS.

"(a) COVERED EMPLOYERS AND INDIVIDUALS.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan—

"(1) all participating employers must be members or affiliated members of the sponsor, except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or affiliated member of the sponsor, participating employers may also include such employer, and

"(2) all individuals commencing coverage under the plan after certification under this part must be—

"(A) active or retired owners (including self-employed individuals), officers, directors, or employees of, or partners in, participating employers, or

"(B) the beneficiaries of individuals described in subparagraph (A).

"(b) COVERAGE OF PREVIOUSLY UNINSURED EMPLOYEES.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan, no affiliated member of the sponsor may be offered coverage under the plan as a participating employer unless—

"(1) the affiliated member was an affiliated member on the date of certification under this part, or

"(2) during the 12-month period preceding the date of the offering of such coverage, the affiliated member has not maintained or contributed to a group health plan with respect to any of its employees who would otherwise be eligible to participate in such association health plan.

"(c) INDIVIDUAL MARKET UNAFFECTED.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan, no participating employer may provide health insurance coverage in the individual market for any employee not covered under the plan which is similar to the coverage contemporaneously provided to employees of the employer under the plan, if such exclusion of the employee from coverage under the plan is based on a health status-related factor with respect to the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the plan.

"(d) PROHIBITION OF DISCRIMINATION AGAINST EMPLOYERS AND EMPLOYEES ELIGIBLE TO PARTICIPATE.—The requirements of this subsection are met with respect to an association health plan if—

"(1) under the terms of the plan, no employer meeting the preceding requirements of this section is excluded as a participating employer, unless—

"(A) participation or contribution requirements of the type referred to in section 2711 of the Public Health Service Act are not met with respect to the excluded employer, or

"(B) the excluded employer does not satisfy a required minimum level of employment uniformly applicable to participating employers,

"(2) the applicable requirements of sections 701, 702, and 703 are met with respect to the plan, and

"(3) applicable benefit options under the plan are actively marketed to all eligible participating employers.

"SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN DOCUMENTS, CONTRIBUTION RATES, AND BENEFIT OPTIONS.

"(a) IN GENERAL.—The requirements of this section are met with respect to an association health plan if the following requirements are met:

"(1) CONTENTS OF GOVERNING INSTRUMENTS.—The instruments governing the plan include a written instrument, meeting the requirements of an instrument required under section 402(a)(1), which—

"(A) provides that the board of trustees serves as the named fiduciary required for plans under section 402(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A)),

"(B) provides that the sponsor of the plan is to serve as plan sponsor (referred to in section 3(16)(B)), and

"(C) incorporates the requirements of section 806.

"(2) CONTRIBUTION RATES MUST BE NONDISCRIMINATORY.—

"(A) The contribution rates for any participating employer do not vary significantly on the basis of the claims experience of such employer and do not vary on the basis of the type of business or industry in which such employer is engaged.

"(B) Nothing in this title or any other provision of law shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from setting contribution rates based on the claims experience of the plan, to the extent contribution rates under the plan meet the requirements of section 702(b).

"(3) FLOOR FOR NUMBER OF COVERED INDIVIDUALS WITH RESPECT TO CERTAIN PLANS.—If any benefit option under the plan does not consist of health insurance coverage, the plan has as of the beginning of the plan year not fewer than 1,000 participants and beneficiaries.

"(4) REGULATORY REQUIREMENTS.—Such other requirements as the Secretary may prescribe by regulation as necessary to carry out the purposes of this part.

"(b) ABILITY OF ASSOCIATION HEALTH PLANS TO DESIGN BENEFIT OPTIONS.—Nothing in this part or any provision of State law (as defined in section 514(c)(1)) shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from exercising its sole discretion in selecting the specific items and services consisting of medical care to be included as benefits under such plan or coverage, except in the case of any law to the extent that it (1) prohibits an exclusion of a specific disease from such coverage, or (2) is not preempted under section 731(a)(1) with respect to matters governed by section 711 or 712.

"SEC. 806. MAINTENANCE OF RESERVES AND PROVISIONS FOR SOLVENCY FOR PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

"(a) IN GENERAL.—The requirements of this section are met with respect to an association health plan if—

"(1) the benefits under the plan consist solely of health insurance coverage, or

"(2) if the plan provides any additional benefit options which do not consist of health insurance coverage, the plan—

"(A) establishes and maintains reserves with respect to such additional benefit options, in amounts recommended by the qualified actuary, consisting of—

"(i) a reserve sufficient for unearned contributions,

"(ii) a reserve sufficient for benefit liabilities which have been incurred, which have not been satisfied, and for which risk of loss has not yet been transferred, and for expected administrative costs with respect to such benefit liabilities,

"(iii) a reserve sufficient for any other obligations of the plan, and

"(iv) a reserve sufficient for a margin of error and other fluctuations, taking into account the specific circumstances of the plan, and

"(B) establishes and maintains aggregate excess/stop loss insurance and solvency indemnification, with respect to such additional benefit options for which risk of loss has not yet been transferred, as follows:

"(i) The plan shall secure aggregate excess/stop loss insurance for the plan with an attachment point which is not greater than 125 percent of expected gross annual claims. The Secretary may by regulation provide for upward adjustments in the amount of such percentage in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

"(ii) The plan shall secure a means of indemnification for any claims which the plan is unable to satisfy by reason of a termination pursuant to section 809(b) (relating to mandatory termination).

Any regulations prescribed by the Secretary pursuant to paragraph (2)(B)(i) may allow for such adjustments in the required levels of excess/stop loss insurance as the qualified actuary may recommend, taking into account the specific circumstances of the plan.

"(b) MINIMUM SURPLUS IN ADDITION TO CLAIMS RESERVES.—The requirements of this subsection are met if the plan establishes and maintains surplus in an amount at least equal to the excess of—

"(1) the greater of—

"(A) 25 percent of expected incurred claims and expenses for the plan year, or

"(B) $400,000,

over

"(2) the amount required under subsection (a)(2)(A)(ii).

"(c) ADDITIONAL REQUIREMENTS.—In the case of any association health plan described in subsection (a)(2), the Secretary may provide such additional requirements relating to reserves and excess/stop loss insurance as the Secretary considers appropriate. Such requirements may be provided, by regulation or otherwise, with respect to any such plan or any class of such plans.

"(d) ADJUSTMENTS FOR EXCESS/STOP LOSS INSURANCE.—The Secretary may provide for adjustments to the levels of reserves otherwise required under subsections (a) and (b) with respect to any plan or class of plans to take into account excess/stop loss insurance provided with respect to such plan or plans.

"(e) ALTERNATIVE MEANS OF COMPLIANCE.—The Secretary may permit an association health plan described in subsection (a)(2) to substitute, for all or part of the requirements of this section, such security, guarantee, hold-harmless arrangement, or other financial arrangement as the Secretary determines to be adequate to enable the plan to fully meet all its financial obligations on a timely basis and is otherwise no less protective of the interests of participants and beneficiaries than the requirements for which it is substituted. The Secretary may take into account, for purposes of this subsection, evidence provided by the plan or sponsor which demonstrates an assumption of liability with respect to the plan. Such evidence may be in the form of a contract of indemnification, lien, bonding, insurance, letter of credit, recourse under applicable terms of the plan in the form of assessments of participating employers, security, or other financial arrangement.

"(f) EXCESS/STOP LOSS INSURANCE.—For purposes of this section, the term 'excess/stop loss insurance' means, in connection with an association health plan, a contract under which an insurer (meeting such minimum standards as may be prescribed in regulations of the Secretary) provides for payment to the plan with respect to claims under the plan in excess of an amount or amounts specified in such contract.

"SEC. 807. REQUIREMENTS FOR APPLICATION AND RELATED REQUIREMENTS.

"(a) FILING FEE.—Under the procedure prescribed pursuant to section 802(a), an association health plan shall pay to the Secretary at the time of filing an application for

certification under this part a filing fee in the amount of $5,000, which shall be available, to the extent provided in appropriation Acts, to the Secretary for the sole purpose of administering the certification procedures applicable with respect to association health plans.

"(b) INFORMATION TO BE INCLUDED IN APPLICATION FOR CERTIFICATION.—An application for certification under this part meets the requirements of this section only if it includes, in a manner and form prescribed in regulations of the Secretary, at least the following information:

"(1) IDENTIFYING INFORMATION.—The names and addresses of—

"(A) the sponsor, and

"(B) the members of the board of trustees of the plan.

"(2) STATES IN WHICH PLAN INTENDS TO DO BUSINESS.—The States in which participants and beneficiaries under the plan are to be located and the number of them expected to be located in each such State.

"(3) BONDING REQUIREMENTS.—Evidence provided by the board of trustees that the bonding requirements of section 412 will be met as of the date of the application or (if later) commencement of operations.

"(4) PLAN DOCUMENTS.—A copy of the documents governing the plan (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits that will be provided to participants and beneficiaries under the plan.

"(5) AGREEMENTS WITH SERVICE PROVIDERS.—A copy of any agreements between the plan and contract administrators and other service providers.

"(6) FUNDING REPORT.—In the case of association health plans providing benefits options in addition to health insurance coverage, a report setting forth information with respect to such additional benefit options determined as of a date within the 120-day period ending with the date of the application, including the following:

"(A) RESERVES.—A statement, certified by the board of trustees of the plan, and a statement of actuarial opinion, signed by a qualified actuary, that all applicable requirements of section 806 are or will be met in accordance with regulations which the Secretary shall prescribe.

"(B) ADEQUACY OF CONTRIBUTION RATES.—A statement of actuarial opinion, signed by a qualified actuary, which sets forth a description of the extent to which contribution rates are adequate to provide for the payment of all obligations and the maintenance of required reserves under the plan for the 12-month period beginning with such date within such 120-day period, taking into account the expected coverage and experience of the plan. If the contribution rates are not fully adequate, the statement of actuarial opinion shall indicate the extent to which the rates are inadequate and the changes needed to ensure adequacy.

"(C) CURRENT AND PROJECTED VALUE OF ASSETS AND LIABILITIES.—A statement of actuarial opinion signed by a qualified actuary, which sets forth the current value of the assets and liabilities accumulated under the plan and a projection of the assets, liabilities, income, and expenses of the plan for the 12-month period referred to in subparagraph (B). The income statement shall identify separately the plan's administrative expenses and claims.

"(D) COSTS OF COVERAGE TO BE CHARGED AND OTHER EXPENSES.—A statement of the costs of coverage to be charged, including an itemization of amounts for administration, reserves, and other expenses associated with the operation of the plan.

"(E) OTHER INFORMATION.—Any other information which may be prescribed in regulations of the Secretary as necessary to carry out the purposes of this part.

"(c) FILING NOTICE OF CERTIFICATION WITH STATES.—A certification granted under this part to an association health plan shall not be effective unless written notice of such certification is filed with the applicable State authority of each State in which at least 25 percent of the participants and beneficiaries under the plan are located. For purposes of this subsection, an individual shall be considered to be located in the State in which a known address of such individual is located or in which such individual is employed.

"(d) NOTICE OF MATERIAL CHANGES.—In the case of any association health plan certified under this part, descriptions of material changes in any information which was required to be submitted with the application for the certification under this part shall be filed in such form and manner as shall be prescribed in regulations of the Secretary. The Secretary may require by regulation prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the certification.

"(e) REPORTING REQUIREMENTS FOR CERTAIN ASSOCIATION HEALTH PLANS.—An association health plan certified under this part which provides benefit options in addition to health insurance coverage for such plan year shall meet the requirements of section 103 by filing an annual report under such section which shall include information described in subsection (b)(6) with respect to the plan year and, notwithstanding section 104(a)(1)(A), shall be filed not later than 90 days after the close of the plan year (or on such later date as may be prescribed by the Secretary).

"(f) ENGAGEMENT OF QUALIFIED ACTUARY.—The board of trustees of each association health plan which provides benefits options in addition to health insurance coverage and which is applying for certification under this part or is certified under this part shall engage, on behalf of all participants and beneficiaries, a qualified actuary who shall be responsible for the preparation of the materials comprising information necessary to be submitted by a qualified actuary under this part. The qualified actuary shall utilize such assumptions and techniques as are necessary to enable such actuary to form an opinion as to whether the contents of the matters reported under this part—

"(1) are in the aggregate reasonably related to the experience of the plan and to reasonable expectations, and

"(2) represent such actuary's best estimate of anticipated experience under the plan.

The opinion by the qualified actuary shall be made with respect to, and shall be made a part of, the annual report.

"SEC. 808. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

"Except as provided in section 809(b), an association health plan which is or has been certified under this part may terminate (upon or at any time after cessation of accruals in benefit liabilities) only if the board of trustees—

"(1) not less than 60 days before the proposed termination date, provides to the participants and beneficiaries a written notice of intent to terminate stating that such termination is intended and the proposed termination date,

"(2) develops a plan for winding up the affairs of the plan in connection with such termination in a manner which will result in timely payment of all benefits for which the plan is obligated, and

"(3) submits such plan in writing to the Secretary.

Actions required under this section shall be taken in such form and manner as may be prescribed in regulations of the Secretary.

"SEC. 809. CORRECTIVE ACTIONS AND MANDATORY TERMINATION.

"(a) ACTIONS TO AVOID DEPLETION OF RESERVES.—An association health plan which is certified under this part and which provides benefits other than health insurance coverage shall continue to meet the requirements of section 806, irrespective of whether such certification continues in effect. The board of trustees of such plan shall determine quarterly whether the requirements of section 806 are met. In any case in which the board determines that there is reason to believe that there is or will be a failure to meet such requirements, or the Secretary makes such a determination and so notifies the board, the board shall immediately notify the qualified actuary engaged by the plan, and such actuary shall, not later than the end of the next following month, make such recommendations to the board for corrective action as the actuary determines necessary to ensure compliance with section 806. Not later than 30 days after receiving from the actuary recommendations for corrective actions, the board shall notify the Secretary (in such form and manner as the Secretary may prescribe by regulation) of such recommendations of the actuary for corrective action, together with a description of the actions (if any) that the board has taken or plans to take in response to such recommendations. The board shall thereafter report to the Secretary, in such form and frequency as the Secretary may specify to the board, regarding corrective action taken by the board until the requirements of section 806 are met.

"(b) MANDATORY TERMINATION.—In any case in which—

"(1) the Secretary has been notified under subsection (a) of a failure of an association health plan which is or has been certified under this part and is described in section 806(a)(2) to meet the requirements of section 806 and has not been notified by the board of trustees of the plan that corrective action has restored compliance with such requirements, and

"(2) the Secretary determines that there is a reasonable expectation that the plan will continue to fail to meet the requirements of section 806,

the board of trustees of the plan shall, at the direction of the Secretary, terminate the plan and, in the course of the termination, take such actions as the Secretary may require, including satisfying any claims referred to in section 806(a)(2)(B)(ii) and recovering for the plan any liability under subsection (a)(2)(B)(ii) or (e) of section 806, as necessary to ensure that the affairs of the plan will be, to the maximum extent possible, wound up in a manner which will result in timely provision of all benefits for which the plan is obligated.

"SEC. 810. SPECIAL RULES FOR CHURCH PLANS.

"(a) ELECTION FOR CHURCH PLANS.—Notwithstanding section 4(b)(2), if a church, a convention or association of churches, or an organization described in section 3(33)(C)(i) maintains a church plan which is a group health plan (as defined in section 733(a)(1)), and such church, convention, association, or

organization makes an election with respect to such plan under this subsection (in such form and manner as the Secretary may by regulation prescribe), then the provisions of this section shall apply to such plan, with respect to benefits provided under such plan consisting of medical care, as if section 4(b)(2) did not contain an exclusion for church plans. Nothing in this paragraph shall be construed to render any other section of this title applicable to church plans, except to the extent that such other section is incorporated by reference in this section.

"(b) EFFECT OF ELECTION.—

"(1) PREEMPTION OF STATE INSURANCE LAWS REGULATING COVERED CHURCH PLANS.—Subject to paragraphs (2) and (3), this section shall supersede any and all State laws which regulate insurance insofar as they may now or hereafter regulate church plans to which this section applies or trusts established under such church plans.

"(2) GENERAL STATE INSURANCE REGULATION UNAFFECTED.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) and paragraph (3), nothing in this section shall be construed to exempt or relieve any person from any provision of State law which regulates insurance.

"(B) CHURCH PLANS NOT TO BE DEEMED INSURANCE COMPANIES OR INSURERS.—Neither a church plan to which this section applies, nor any trust established under such a church plan, shall be deemed to be an insurance company or other insurer or to be engaged in the business of insurance for purposes of any State law purporting to regulate insurance companies or insurance contracts.

"(3) PREEMPTION OF CERTAIN STATE LAWS RELATING TO PREMIUM RATE REGULATION AND BENEFIT MANDATES.—The provisions of subsections (a)(2)(B) and (b) of section 805 shall apply with respect to a church plan to which this section applies in the same manner and to the same extent as such provisions apply with respect to association health plans.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) STATE LAW.—The term 'State law' includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

"(B) STATE.—The term 'State' includes a State, any political subdivision thereof, or any agency or instrumentality of either, which purports to regulate, directly or indirectly, the terms and conditions of church plans covered by this section.

"(c) REQUIREMENTS FOR COVERED CHURCH PLANS.—

"(1) FIDUCIARY RULES AND EXCLUSIVE PURPOSE.—A fiduciary shall discharge his duties with respect to a church plan to which this section applies—

"(A) for the exclusive purpose of:

"(i) providing benefits to participants and their beneficiaries; and

"(ii) defraying reasonable expenses of administering the plan;

"(B) with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and

"(C) in accordance with the documents and instruments governing the plan.

The requirements of this paragraph shall not be treated as not satisfied solely because the plan assets are commingled with other church assets, to the extent that such plan assets are separately accounted for.

"(2) CLAIMS PROCEDURE.—In accordance with regulations of the Secretary, every church plan to which this section applies shall—

"(A) provide adequate notice in writing to any participant or beneficiary whose claim for benefits under the plan has been denied, setting forth the specific reasons for such denial, written in a manner calculated to be understood by the participant;

"(B) afford a reasonable opportunity to any participant whose claim for benefits has been denied for a full and fair review by the appropriate fiduciary of the decision denying the claim; and

"(C) provide a written statement to each participant describing the procedures established pursuant to this paragraph.

"(3) ANNUAL STATEMENTS.—In accordance with regulations of the Secretary, every church plan to which this section applies shall file with the Secretary an annual statement—

"(A) stating the names and addresses of the plan and of the church, convention, or association maintaining the plan (and its principal place of business);

"(B) certifying that it is a church plan to which this section applies and that it complies with the requirements of paragraphs (1) and (2);

"(C) identifying the States in which participants and beneficiaries under the plan are or likely will be located during the 1-year period covered by the statement; and

"(D) containing a copy of a statement of actuarial opinion signed by a qualified actuary that the plan maintains capital, reserves, insurance, other financial arrangements, or any combination thereof adequate to enable the plan to fully meet all of its financial obligations on a timely basis.

"(4) DISCLOSURE.—At the time that the annual statement is filed by a church plan with the Secretary pursuant to paragraph (3), a copy of such statement shall be made available by the Secretary to the State insurance commissioner (or similar official) of any State. The name of each church plan and sponsoring organization filing an annual statement in compliance with paragraph (3) shall be published annually in the Federal Register.

"(c) ENFORCEMENT.—The Secretary may enforce the provisions of this section in a manner consistent with section 502, to the extent applicable with respect to actions under section 502(a)(5), and with section 3(33)(D), except that, other than for the purpose of seeking a temporary restraining order, a civil action may be brought with respect to the plan's failure to meet any requirement of this section only if the plan fails to correct its failure within the correction period described in section 3(33)(D). The other provisions of part 5 (except sections 501(a), 503, 512, 514, and 515) shall apply with respect to the enforcement and administration of this section.

"(d) DEFINITIONS AND OTHER RULES.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, any term used in this section which is defined in any provision of this title shall have the definition provided such term by such provision.

"(2) SEMINARY STUDENTS.—Seminary students who are enrolled in an institution of higher learning described in section 3(33)(C)(iv) and who are treated as participants under the terms of a church plan to which this section applies shall be deemed to be employees as defined in section 3(6) if the number of such students constitutes an insignificant portion of the total number of individuals who are treated as participants under the terms of the plan.

"SEC. 811. DEFINITIONS AND RULES OF CONSTRUCTION.

"(a) DEFINITIONS.—For purposes of this part—

"(1) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning provided in section 733(a)(1).

"(2) MEDICAL CARE.—The term 'medical care' has the meaning provided in section 733(a)(2).

"(3) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning provided in section 733(b)(1).

"(4) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning provided in section 733(b)(2).

"(5) HEALTH STATUS-RELATED FACTOR.—The term 'health status-related factor' has the meaning provided in section 733(d)(2).

"(6) INDIVIDUAL MARKET.—

"(A) IN GENERAL.—The term 'individual market' means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

"(B) TREATMENT OF VERY SMALL GROUPS.—

"(i) IN GENERAL.—Subject to clause (ii), such term includes coverage offered in connection with a group health plan that has fewer than 2 participants as current employees or participants described in section 732(d)(3) on the first day of the plan year.

"(ii) STATE EXCEPTION.—Clause (i) shall not apply in the case of health insurance coverage offered in a State if such State regulates the coverage described in such clause in the same manner and to the same extent as coverage in the small group market (as defined in section 2791(e)(5) of the Public Health Service Act) is regulated by such State.

"(7) PARTICIPATING EMPLOYER.—The term 'participating employer' means, in connection with an association health plan, any employer, if any individual who is an employee of such employer, a partner in such employer, or a self-employed individual who is such employer (or any dependent, as defined under the terms of the plan, of such individual) is or was covered under such plan in connection with the status of such individual as such an employee, partner, or self-employed individual in relation to the plan.

"(8) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of title XXVII of the Public Health Service Act for the State involved with respect to such issuer.

"(9) QUALIFIED ACTUARY.—The term 'qualified actuary' means an individual who is a member of the American Academy of Actuaries or meets such reasonable standards and qualifications as the Secretary may provide by regulation.

"(10) AFFILIATED MEMBER.—The term 'affiliated member' means, in connection with a sponsor, a person eligible to be a member of the sponsor or, in the case of a sponsor with member associations, a person who is a member, or is eligible to be a member, of a member association.

"(b) RULES OF CONSTRUCTION.—

"(1) EMPLOYERS AND EMPLOYEES.—For purposes of determining whether a plan, fund, or program is an employee welfare benefit plan which is an association health plan, and for

purposes of applying this title in connection with such plan, fund, or program so determined to be such an employee welfare benefit plan—

"(A) in the case of a partnership, the term 'employer' (as defined in section (3)(5)) includes the partnership in relation to the partners, and the term 'employee' (as defined in section (3)(6)) includes any partner in relation to the partnership, and

"(B) in the case of a self-employed individual, the term 'employer' (as defined in section 3(5)) and the term 'employee' (as defined in section 3(6)) shall include such individual.

"(2) PLANS, FUNDS, AND PROGRAMS TREATED AS EMPLOYEE WELFARE BENEFIT PLANS.—In the case of any plan, fund, or program which was established or is maintained for the purpose of providing medical care (through the purchase of insurance or otherwise) for employees (or their dependents) covered thereunder and which demonstrates to the Secretary that all requirements for certification under this part would be met with respect to such plan, fund, or program if such plan, fund, or program were a group health plan, such plan, fund, or program shall be treated for purposes of this title as an employee welfare benefit plan on and after the date of such demonstration.".

(b) CONFORMING AMENDMENTS TO PREEMPTION RULES.—

(1) Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new subparagraph:

"(E) The preceding subparagraphs of this paragraph do not apply with respect to any State law in the case of an association health plan which is certified under part 8.".

(2) Section 514 of such Act (29 U.S.C. 1144) is amended—

(A) in subsection (b)(4), by striking "Subsection (a)" and inserting "Subsections (a) and (d)";

(B) in subsection (b)(5), by striking "subsection (a)" in subparagraph (A) and inserting "subsection (a) of this section and subsections (a)(2)(B) and (b) of section 805", and by striking "subsection (a)" in subparagraph (B) and inserting "subsection (a) of this section or subsection (a)(2)(B) or (b) of section 805";

(C) by redesignating subsection (d) as subsection (e); and

(D) by inserting after subsection (c) the following new subsection:

"(d)(1) Except as provided in subsection (b)(4), the provisions of this title shall supersede any and all State laws insofar as they may now or hereafter preclude a health insurance issuer from offering health insurance coverage in connection with an association health plan which is certified under part 8.

"(2) Except as provided in paragraphs (4) and (5) of subsection (b) of this section—

"(A) In any case in which health insurance coverage of any policy type is offered under an association health plan certified under part 8 to a participating employer operating in such State, the provisions of this title shall supersede any and all laws of such State insofar as they may preclude a health insurance issuer from offering health insurance coverage of the same policy type to other employers operating in the State which are eligible for coverage under such association health plan, whether or not such other employers are participating employers in such plan.

"(B) In any case in which health insurance coverage of any policy type is offered under an association health plan in a State and the filing, with the applicable State authority, of the policy form in connection with such policy type is approved by such State authority, the provisions of this title shall supersede any and all laws of any other State in which health insurance coverage of such type is offered, insofar as they may preclude, upon the filing in the same form and manner of such policy form with the applicable State authority in such other State, the approval of the filing in such other State.

"(3) For additional provisions relating to association health plans, see subsections (a)(2)(B) and (b) of section 805.

"(4) For purposes of this subsection, the term 'association health plan' has the meaning provided in section 801(a), and the terms 'health insurance coverage', 'participating employer', and 'health insurance issuer' have the meanings provided such terms in section 811, respectively.".

(3) Section 514(b)(6)(A) of such Act (29 U.S.C. 1144(b)(6)(A)) is amended—

(A) in clause (i)(II), by striking "and" at the end;

(B) in clause (ii), by inserting "and which does not provide medical care (within the meaning of section 733(a)(2)),'' after "arrangement,", and by striking "title." and inserting "title, and"; and

(C) by adding at the end the following new clause:

"(iii) subject to subparagraph (E), in the case of any other employee welfare benefit plan which is a multiple employer welfare arrangement and which provides medical care (within the meaning of section 733(a)(2)), any law of any State which regulates insurance may apply.".

(c) PLAN SPONSOR.—Section 3(16)(B) of such Act (29 U.S.C. 102(16)(B)) is amended by adding at the end the following new sentence: "Such term also includes a person serving as the sponsor of an association health plan under part 8.".

(d) SAVINGS CLAUSE.—Section 731(c) of such Act is amended by inserting "or part 8" after "this part".

(e) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

"PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

"Sec. 801. Association health plans.
"Sec. 802. Certification of association health plans.
"Sec. 803. Requirements relating to sponsors and boards of trustees.
"Sec. 804. Participation and coverage requirements.
"Sec. 805. Other requirements relating to plan documents, contribution rates, and benefit options.
"Sec. 806. Maintenance of reserves and provisions for solvency for plans providing health benefits in addition to health insurance coverage.
"Sec. 807. Requirements for application and related requirements.
"Sec. 808. Notice requirements for voluntary termination.
"Sec. 809. Corrective actions and mandatory termination.
"Sec. 810. Special rules for church plans.
"Sec. 811. Definitions and rules of construction.".

SEC. 5303. CLARIFICATION OF TREATMENT OF SINGLE EMPLOYER ARRANGEMENTS.

Section 3(40)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(B)) is amended—

(1) in clause (i), by inserting "for any plan year of any such plan, or any fiscal year of any such other arrangement;" after "single employer", and by inserting "during such year or at any time during the preceding 1-year period" after "control group";

(2) in clause (iii)—

(A) by striking "common control shall not be based on an interest of less than 25 percent" and inserting "an interest of greater than 25 percent may not be required as the minimum interest necessary for common control"; and

(B) by striking "similar to" and inserting "consistent and coextensive with";

(3) by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively; and

(4) by inserting after clause (iii) the following new clause:

"(iv) in determining, after the application of clause (i), whether benefits are provided to employees of two or more employers, the arrangement shall be treated as having only 1 participating employer if, after the application of clause (i), the number of individuals who are employees and former employees of any one participating employer and who are covered under the arrangement is greater than 75 percent of the aggregate number of all individuals who are employees or former employees of participating employers and who are covered under the arrangement,".

SEC. 5304. CLARIFICATION OF TREATMENT OF CERTAIN COLLECTIVELY BARGAINED ARRANGEMENTS.

(a) IN GENERAL.—Section 3(40)(A)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(A)(i)) is amended to read as follows:

"(i)(I) under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws, and (II) in accordance with subparagraphs (C), (D), and (E),".

(b) LIMITATIONS.—Section 3(40) of such Act (29 U.S.C. 1002(40)) is amended by adding at the end the following new subparagraphs:

"(C) For purposes of subparagraph (A)(i)(II), a plan or other arrangement shall be treated as established or maintained in accordance with this subparagraph only if the following requirements are met:

"(i) The plan or other arrangement, and the employee organization or any other entity sponsoring the plan or other arrangement, do not—

"(I) utilize the services of any licensed insurance agent or broker for soliciting or enrolling employers or individuals as participating employers or covered individuals under the plan or other arrangement; or

"(II) pay a commission or any other type of compensation to a person, other than a full time employee of the employee organization (or a member of the organization to the extent provided in regulations of the Secretary), that is related either to the volume or number of employers or individuals solicited or enrolled as participating employers or covered individuals under the plan or other arrangement, or to the dollar amount or size of the contributions made by participating employers or covered individuals to the plan or other arrangement;

except to the extent that the services used by the plan, arrangement, organization, or other entity consist solely of preparation of documents

necessary for compliance with the reporting and disclosure requirements of part 1 or administrative, investment, or consulting services unrelated to solicitation or enrollment of covered individuals.

"(ii) As of the end of the preceding plan year, the number of covered individuals under the plan or other arrangement who are identified to the plan or arrangement and who are neither—

"(I) employed within a bargaining unit covered by any of the collective bargaining agreements with a participating employer (nor covered on the basis of an individual's employment in such a bargaining unit); nor

"(II) present employees (or former employees who were covered while employed) of the sponsoring employee organization, of an employer who is or was a party to any of the collective bargaining agreements, or of the plan or other arrangement or a related plan or arrangement (nor covered on the basis of such present or former employment);

does not exceed 15 percent of the total number of individuals who are covered under the plan or arrangement and who are present or former employees who are or were covered under the plan or arrangement pursuant to a collective bargaining agreement with a participating employer. The requirements of the preceding provisions of this clause shall be treated as satisfied if, as of the end of the preceding plan year, such covered individuals are comprised solely of individuals who were covered individuals under the plan or other arrangement as of the date of the enactment of the Expansion of Portability and Health Insurance Coverage Act of 1997 and, as of the end of the preceding plan year, the number of such covered individuals does not exceed 25 percent of the total number of present and former employees enrolled under the plan or other arrangement.

"(iii) The employee organization or other entity sponsoring the plan or other arrangement certifies to the Secretary each year, in a form and manner which shall be prescribed in regulations of the Secretary that the plan or other arrangement meets the requirements of clauses (i) and (ii).

"(D) For purposes of subparagraph (A)(i)(II), a plan or arrangement shall be treated as established or maintained in accordance with this subparagraph only if—

"(i) all of the benefits provided under the plan or arrangement consist of health insurance coverage; or

"(ii)(I) the plan or arrangement is a multiemployer plan; and

"(II) the requirements of clause (B) of the proviso to clause (5) of section 302(c) of the Labor Management Relations Act, 1947 (29 U.S.C. 186(c)) are met with respect to such plan or other arrangement.

"(E) For purposes of subparagraph (A)(i)(II), a plan or arrangement shall be treated as established or maintained in accordance with this subparagraph only if—

"(i) the plan or arrangement is in effect as of the date of the enactment of the Expansion of Portability and Health Insurance Coverage Act of 1997, or

"(ii) the employee organization or other entity sponsoring the plan or arrangement—

"(I) has been in existence for at least 3 years or is affiliated with another employee organization which has been in existence for at least 3 years, or

"(II) demonstrates to the satisfaction of the Secretary that the requirements of subparagraphs (C) and (D) are met with respect to the plan or other arrangement.".

(c) CONFORMING AMENDMENTS TO DEFINITIONS OF PARTICIPANT AND BENEFICIARY.—Section 3(7) of such Act (29 U.S.C. 1002(7)) is amended by adding at the end the following new sentence: "Such term includes an individual who is a covered individual described in paragraph (40)(C)(ii).".

SEC. 5305. ENFORCEMENT PROVISIONS RELATING TO ASSOCIATION HEALTH PLANS.

(a) CRIMINAL PENALTIES FOR CERTAIN WILLFUL MISREPRESENTATIONS.—Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by inserting "(a)" after "SEC. 501."; and

(2) by adding at the end the following new subsection:

"(b) Any person who, either willfully or with willful blindness, falsely represents, to any employee, any employee's beneficiary, any employer, the Secretary, or any State, a plan or other arrangement established or maintained for the purpose of offering or providing any benefit described in section 3(1) to employees or their beneficiaries as—

"(1) being an association health plan which has been certified under part 8;

"(2) having been established or maintained under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws; or

"(3) being a plan or arrangement with respect to which the requirements of subparagraph (C), (D), or (E) of section 3(40) are met;

shall, upon conviction, be imprisoned not more than five years, be fined under title 18, United States Code, or both.".

(b) CEASE ACTIVITIES ORDERS.—Section 502 of such Act (29 U.S.C. 1132) is amended by adding at the end the following new subsection:

"(n)(1) Subject to paragraph (2), upon application by the Secretary showing the operation, promotion, or marketing of an association health plan (or similar arrangement providing benefits consisting of medical care (as defined in section 733(a)(2))) that—

"(A) is not certified under part 8, is subject under section 514(b)(6) to the insurance laws of any State in which the plan or arrangement offers or provides benefits, and is not licensed, registered, or otherwise approved under the insurance laws of such State; or

"(B) is an association health plan certified under part 8 and is not operating in accordance with the requirements under part 8 for such certification,

a district court of the United States shall enter an order requiring that the plan or arrangement cease activities.

"(2) Paragraph (1) shall not apply in the case of an association health plan or other arrangement if the plan or arrangement shows that—

"(A) all benefits under it referred to in paragraph (1) consist of health insurance coverage; and

"(B) with respect to each State in which the plan or arrangement offers or provides benefits, the plan or arrangement is operating in accordance with applicable State laws that are not superseded under section 514.

"(3) The court may grant such additional equitable relief, including any relief available under this title, as it deems necessary to protect the interests of the public and of persons having claims for benefits against the plan.".

(c) RESPONSIBILITY FOR CLAIMS PROCEDURE.—Section 503 of such Act (29 U.S.C. 1133) is amended by adding at the end (after and below paragraph (2)) the following new sentence:

"The terms of each association health plan which is or has been certified under part 8 shall require the board of trustees or the named fiduciary (as applicable) to ensure that the requirements of this section are met in connection with claims filed under the plan.".

SEC. 5306. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

"(c) RESPONSIBILITY OF STATES WITH RESPECT TO ASSOCIATION HEALTH PLANS.—

"(1) AGREEMENTS WITH STATES.—A State may enter into an agreement with the Secretary for delegation to the State of some or all of the Secretary's authority under sections 502 and 504 to enforce the requirements for certification under part 8. The Secretary shall enter into the agreement if the Secretary determines that the delegation provided for therein would not result in a lower level or quality of enforcement of the provisions of this title.

"(2) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this paragraph may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.

"(3) RECOGNITION OF PRIMARY DOMICILE STATE.—In entering into any agreement with a State under subparagraph (A), the Secretary shall ensure that, as a result of such agreement and all other agreements entered into under subparagraph (A), only one State will be recognized, with respect to any particular association health plan, as the primary domicile State to which authority has been delegated pursuant to such agreements.".

SEC. 5307. EFFECTIVE DATE AND TRANSITIONAL RULES.

(a) EFFECTIVE DATE.—The amendments made by sections 5302, 5305, and 5306 shall take effect on January 1, 1999. The amendments made by sections 5303 and 5304 shall take effect on the date of the enactment of this Act. The Secretary of Labor shall issue all regulations necessary to carry out the amendments made by this Act before January 1, 1999.

(b) EXCEPTION.—Section 801(a)(2) of the Employee Retirement Income Security Act of 1974 (added by section 5302) does not apply with respect to group health plans (as defined in section 733(a)(1) of such Act) existing on April 1, 1997, which do not provide health insurance coverage (as defined in section 733(b)(1) of such Act) on such date.

TITLE VI—COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Subtitle A—Postal Service

SEC. 6001. REPEAL OF AUTHORIZATION OF TRANSITIONAL APPROPRIATIONS FOR THE UNITED STATES POSTAL SERVICE.

(a) REPEAL.—

(1) IN GENERAL.—Section 2004 of title 39, United States Code, is repealed.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) The table of sections for chapter 20 of such title is amended by repealing the item relating to section 2004.

(B) Section 2003(e)(2) of such title is amended by striking "sections 2401 and 2004" each place it appears and inserting "section 2401".

(b) CLARIFICATION THAT LIABILITIES FORMERLY PAID PURSUANT TO SECTION 2004 REMAIN LIABILITIES PAYABLE BY THE POSTAL SERVICE.—Section 2003 of title 39, United States Code, is amended by adding at the end the following:

"(h) Liabilities of the former Post Office Department to the Employees' Compensation Fund (appropriations for which were authorized by former section 2004, as in effect before the effective date of this subsection) shall be liabilities of the Postal Service payable out of the Fund.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act or October 1, 1997, whichever is later.

(2) PROVISIONS RELATING TO PAYMENTS FOR FISCAL YEAR 1998.—

(A) AMOUNTS NOT YET PAID.—No payment may be made to the Postal Service Fund, on or after the date of the enactment of this Act, pursuant to any appropriation for fiscal year 1998 authorized by section 2004 of title 39, United States Code (as in effect before the effective date of this section).

(B) AMOUNTS PAID.—If any payment to the Postal Service Fund is or has been made pursuant to an appropriation for fiscal year 1998 authorized by such section 2004, then, an amount equal to the amount of such payment shall be paid from such Fund into the Treasury as miscellaneous receipts before October 1, 1998.

Subtitle B—Civil Service

SEC. 6101. CONTRIBUTIONS UNDER THE CIVIL SERVICE RETIREMENT SYSTEM.

(a) INDIVIDUAL CONTRIBUTIONS.—

(1) IN GENERAL.—Subsection (c) of section 8334 of title 5, United States Code, is amended to read as follows:

"(c) Each employee or Member credited with civilian service after July 31, 1920, for which retirement deductions or deposits have not been made, may deposit with interest an amount equal to the following percentages of his basic pay received for that service:

	"Percentage of basic pay	Service period
Employee	2.50	August 1, 1920, to June 30, 1926.
	3.50	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6.50	November 1, 1956, to December 31, 1969.
	7	January 1, 1970, to December 31, 1998.
	7.25	January 1, 1999, to December 31, 1999.
	7.40	January 1, 2000, to December 31, 2000.
	7.50	January 1, 2001, to December 31, 2002.
	7	After December 31, 2002.
Member or employee for Congressional employee service	2.50	August 1, 1920, to June 30, 1926.
	3.50	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6.50	November 1, 1956, to December 31, 1969.
	7.50	January 1, 1970, to December 31, 1998.
	7.75	January 1, 1999, to December 31, 1999.
	7.90	January 1, 2000, to December 31, 2000.
	8	January 1, 2001, to December 31, 2002.
	7.50	After December 31, 2002.
Member for Member service	2.50	August 1, 1920, to June 30, 1926.
	3.50	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to August 1, 1946.
	6	August 2, 1946, to October 31, 1956.
	7.50	November 1, 1956, to December 31, 1969.
	8	January 1, 1970, to December 31, 1998.
	8.25	January 1, 1999, to December 31, 1999.
	8.40	January 1, 2000, to December 31, 2000.
	8.50	January 1, 2001, to December 31, 2002.
	8	After December 31, 2002.
Law enforcement officer for law enforcement service and firefighter for firefighter service	2.50	August 1, 1920, to June 30, 1926.
	3.50	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6.50	November 1, 1956, to December 31, 1969.
	7	January 1, 1970, to December 31, 1974.
	7.50	January 1, 1975, to December 31, 1998.
	7.75	January 1, 1999, to December 31, 1999.
	7.90	January 1, 2000, to December 31, 2000.
	8	January 1, 2001, to December 31, 2002.
	7.50	After December 31, 2002.
Bankruptcy judge	2.50	August 1, 1920, to June 30, 1926.
	3.50	July 3, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6.50	November 1, 1956, to December 31, 1969.
	7	January 1, 1970, to December 31, 1983.
	8	January 1, 1984, to December 31, 1998.
	8.25	January 1, 1999, to December 31, 1999.
	8.40	January 1, 2000, to December 31, 2000.
	8.50	January 1, 2001, to December 31, 2002.
	8	After December 31, 2002.
Judge of the United States Court of Appeals for the Armed Forces for service as a judge of that court	6	May 5, 1950, to October 31, 1956.
	6.50	November 1, 1956, to December 31, 1969.
	7	January 1, 1970, to (but not including) the date of the enactment of the Department of Defense Authorization Act, 1984.
	8	The date of the enactment of the Department of Defense Authorization Act, 1984, to December 31, 1998.
	8.25	January 1, 1999, to December 31, 1999.
	8.40	January 1, 2000, to December 31, 2000.
	8.50	January 1, 2001, to December 31, 2002.
	8	After December 31, 2002.
United States magistrate	2.50	August 1, 1920, to June 30, 1926.
	3.50	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6.50	November 1, 1956, to December 31, 1969.
	7	January 1, 1970, to September 30, 1987.
	8	October 1, 1987, to December 31, 1998.
	8.25	January 1, 1999, to December 31, 1999.
	8.40	January 1, 2000, to December 31, 2000.
	8.50	January 1, 2001, to December 31, 2002.
	8	After December 31, 2002.
Claims Court Judge	2.50	August 1, 1920, to June 30, 1926.
	3.50	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6.50	November 1, 1956, to December 31, 1969.
	7	January 1, 1970, to September 30, 1988.
	8	October 1, 1988, to December 31, 1998.
	8.25	January 1, 1999, to December 31, 1999.
	8.40	January 1, 2000, to December 31, 2000.

Notwithstanding the preceding provisions of this subsection and any provision of section 206(b)(3) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983, the percentage of basic pay required under this subsection in the case of an individual described in section 8402(b)(2) shall, with respect to any covered service (as defined by section 203(a)(3) of such Act) performed by such individual after December 31, 1983, and before January 1, 1987, be equal to 1.3 percent, and, with respect to any such service performed after December 31, 1986, be equal to the amount that would have been deducted from the employee's basic pay under subsection (k) of this section if the employee's pay had been subject to that subsection during such period.".

(2) DEDUCTIONS.—The first sentence of section 8334(a)(1) of title 5, United States Code, is amended to read as follows: "The employing agency shall deduct and withhold from the basic pay of an employee, Member, Congressional employee, law enforcement officer, firefighter, bankruptcy judge, judge of the United States Court of Appeals for the Armed Forces, United States magistrate, or Claims Court judge, as the case may be, the percentage of basic pay applicable under subsection (c).".

(3) OTHER SERVICE.—

(A) MILITARY SERVICE.—Section 8334(j) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting "and subject to paragraph (5)," after "Except as provided in subparagraph (B),"; and

(ii) by adding at the end the following:

"(5) Effective with respect to any period of military service performed after December 31, 1998, and before January 1, 2003, the percentage of basic pay under section 204 of title 37 payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) for that same period for service as an 'employee', subject to paragraph (1)(B).".

(B) VOLUNTEER SERVICE.—Section 8334(l) of title 5, United States Code, is amended—

(i) in paragraph (1) by striking the period at the end and inserting ", subject to paragraph (4).''; and

(ii) by adding at the end the following:

"(4) Effective with respect to any period of service as a volunteer or volunteer leader performed after December 31, 1998, and before January 1, 2003, the percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) for that same period for service as an 'employee'.".

(b) GOVERNMENT CONTRIBUTIONS.—

(1) IN GENERAL.—Section 8334 of title 5, United States Code, is amended by adding at the end the following:

"(m)(1) This subsection shall govern for purposes of determining the amount to be contributed under the second sentence of subsection (a)(1) with respect to any service—

"(A) which is performed after September 30, 1997, and before January 1, 2003; and

"(B) as to which a contribution under such sentence would otherwise be payable.

"(2) The amount of the contribution required under the second sentence of subsection (a)(1) with respect to any service described in paragraph (1) shall (instead of the amount which would otherwise apply under such sentence) be equal to the amount of basic pay received for such service by the employee or Member involved, multiplied by the percentage under paragraph (3).

"(3)(A) The percentage under this paragraph is, with respect to any service, equal to the sum of—

"(i) the percentage which would have been applicable under subsection (c), with respect to such service, if it had been performed in fiscal year 1997, plus

"(ii) the applicable percentage under subparagraph (B).

"(B) The applicable percentage under this subparagraph is, with respect to service performed—

"(i) after September 30, 1997, and before October 1, 2002, 1.51 percent; or

"(ii) after September 30, 2002, and before January 1, 2003, 0 percent.

"(4) An amount determined under this subsection with respect to any period of service shall, for purposes of subsection (k)(1)(B) (and any other provision of law which similarly refers to contributions under the second sentence of subsection (a)(1)), be treated as the amount required under such sentence with respect to such service.

"(5)(A) Notwithstanding paragraphs (1) through (4), the amount to be contributed by the Postal Service by reason of the second sentence of subsection (a)(1) with respect to any service performed by an officer or employee of the Postal Service during the period described in subparagraph (A) of paragraph (1) shall be determined as if section 6101 of the Balanced Budget Act of 1997 had never been enacted.

"(B) For purposes of this paragraph, the term 'Postal Service' means the United States Postal Service and the Postal Rate Commission.".

(2) CONFORMING AMENDMENT.—The second sentence of section 8334(a)(1) of title 5, United States Code, is amended by striking the period and inserting ", subject to subsection (m).".

SEC. 6102. CONTRIBUTIONS UNDER THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM.

(a) INDIVIDUAL CONTRIBUTIONS.—

(1) IN GENERAL.—Subsection (a) of section 8422 of title 5, United States Code, is amended—

(A) in paragraph (1) by striking "paragraph (2)." and inserting "paragraph (2) or (3), as applicable.";

(B) in paragraph (2) by striking "The applicable" and inserting "Subject to paragraph (3), the applicable"; and

(C) by adding at the end the following:

"(3)(A) The applicable percentage under this subsection shall, for purposes of service performed after December 31, 1998, and before January 1, 2003, be equal to—

"(i) the applicable percentage under subparagraph (B), minus

"(ii) the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1986 (relating to rate of tax for old-age, survivors, and disability insurance).

"(B) The applicable percentage under this subparagraph shall be as follows:

	"Percentage of basic pay	Service period
Employee	7.25	January 1, 1999, to December 31, 1999.
	7.40	January 1, 2000, to December 31, 2000.
	7.50	January 1, 2001, to December 31, 2002.
Congressional employee	7.75	January 1, 1999, to December 31, 1999.
	7.90	January 1, 2000, to December 31, 2000.
	8	January 1, 2001, to December 31, 2002.
Member	7.75	January 1, 1999, to December 31, 1999.
	7.90	January 1, 2000, to December 31, 2000.
	8	January 1, 2001, to December 31, 2002.
Law enforcement officer	7.75	January 1, 1999, to December 31, 1999.
	7.90	January 1, 2000, to December 31, 2000.
	8	January 1, 2001, to December 31, 2002.
Firefighter	7.75	January 1, 1999, to December 31, 1999.
	7.90	January 1, 2000, to December 31, 2000.
	8	January 1, 2001, to December 31, 2002.
Air traffic controller	7.75	January 1, 1999, to December 31, 1999.
	7.90	January 1, 2000, to December 31, 2000.
	8	January 1, 2001, to December 31, 2002.".

(2) OTHER SERVICE.—

(A) MILITARY SERVICE.—Section 8422(e) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting "and subject to paragraph (5)," after "Except as provided in subparagraph (B),"; and

(ii) by adding at the end the following:

"(5) Effective with respect to any period of military service performed after December 31, 1998, and before January 1, 2003, the percentage of basic pay under section 204 of title 37 payable under paragraph (1) shall be equal to the sum of the percentage specified in paragraph (1), plus—

"(A) .25 percent, if performed after December 31, 1998, and before January 1, 2000;

"(B) .40 percent, if performed after December 31, 1999, and before January 1, 2001;

"(C) .50 percent, if performed after December 31, 2000, and before January 1, 2003.".

(B) VOLUNTEER SERVICE.—Section 8422(f) of title 5, United States Code, is amended—

(i) in paragraph (1) by striking the period at the end and inserting ", subject to paragraph (4).''; and

(ii) by adding at the end the following:

"(4) Effective with respect to any period of service as a volunteer or volunteer leader performed after December 31, 1998, and before January 1, 2003, the percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1) shall be equal to the sum of the percentage specified in paragraph (1), plus—

"(A) .25 percent, if performed after December 31, 1998, and before January 1, 2000;

"(B) .40 percent, if performed after December 31, 1999, and before January 1, 2001;

"(C) .50 percent, if performed after December 31, 2000, and before January 1, 2003.".

(b) GOVERNMENT CONTRIBUTIONS.—

(1) IN GENERAL.—Section 8423 of title 5, United States Code, is amended by adding at the end the following:

"(d)(1) This subsection shall govern for purposes of determining the amount to be contributed by an employing agency for any period (or portion thereof)—

"(A) which is occurs after September 30, 1997, and before January 1, 2003; and

"(B) as to which a contribution under subsection (a) would otherwise be payable by such agency.

"(2) The amount of the contribution required under subsection (a) with respect to any period (or portion thereof) described in paragraph (1) shall (instead of the amount which would otherwise apply) be equal to the amount which would be required under subsection (a) if section 6102(a) of the Balanced Budget Act of 1997 had never been enacted.".

(2) CONFORMING AMENDMENT.—Section 8423(a)(1) of title 5, United States Code, is amended by striking "Each" and inserting "Subject to subsection (d), each".

SEC. 6103. GOVERNMENT CONTRIBUTION FOR HEALTH BENEFITS.

(a) IN GENERAL.—Section 8906 of title 5, United States Code, is amended by striking subsection (a) and all that follows through the end of paragraph (1) of subsection (b) and inserting the following:

"(a)(1) The Office of Personnel Management shall, not later than October 1 of each year, determine the weighted average of the subscription charges that will be in effect during the following contract year with respect to—

"(A) enrollments under this chapter for self alone; and

"(B) enrollments under this chapter for self and family.

"(2) In determining each weighted average under paragraph (1), the weight to be given to a particular subscription charge shall, with respect to each plan (and option) to which it is to apply, be commensurate with the number of enrollees enrolled in such plan (and option) as of March 31 of the year in which the determination is being made.

"(3) For purposes of paragraph (2), the term 'enrollee' means any individual who, during the contract year for which the weighted average is to be used under this section, will be eligible for a Government contribution for health benefits.

"(b)(1) Except as provided in paragraphs (2) and (3), the biweekly Government contribution for health benefits for an employee or annuitant enrolled in a health benefits plan under this chapter is adjusted to an amount equal to 72 percent of the weighted average under subsection (a)(1)(A) or (B), as applicable. For an employee, the adjustment begins on the first day of the employee's first pay period of each year. For an annuitant, the adjustment begins on the first day of the first period of each year for which an annuity payment is made.".

(b) EFFECTIVE DATE.—This section and the amendment made by this section shall take effect on the first day of the contract year that begins in 1999, except that nothing in this subsection shall prevent the Office of Personnel Management from taking any action, before such first day, which it considers necessary in order to ensure the timely implementation of such amendment.

SEC. 6104. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in section 6103, this subtitle shall take effect on—

(1) October 1, 1997; or

(2) if later, the date of the enactment of this Act.

(b) SPECIAL RULE.—If the date of the enactment of this Act is later than October 1, 1997, then, for purposes of applying the amendments made by sections 6101 and 6102—

(1) any reference in any such amendment to "September 30, 1997" shall be treated as referring to the day before the date of the enactment of this Act; and

(2) any reference in any such amendment to "October 1, 1997" shall be treated as referring to the date of the enactment of this Act.

TITLE VII—COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

SEC. 7001. EXTENSION OF HIGHER VESSEL TONNAGE DUTIES.

(a) EXTENSION OF DUTIES.—Section 36 of the Act of August 5, 1909 (36 Stat. 111; 46 U.S.C. App. 121), is amended by striking "for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998," each place it appears and inserting "for fiscal years through fiscal year 2002,".

(b) CONFORMING AMENDMENT.—The Act entitled "An Act concerning tonnage duties on vessels entering otherwise than by sea", approved March 8, 1910 (36 Stat. 234; 46 U.S.C. App. 132), is amended by striking "for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, and 1998," and inserting "for fiscal years through fiscal year 2002,".

SEC. 7002. SALE OF GOVERNORS ISLAND, NEW YORK.

(a) IN GENERAL.—Notwithstanding any other provision of law, no earlier than fiscal year 2002, the Administrator of General Services shall dispose of by sale at fair market value all rights, title, and interests of the United States in and to the land of, and improvements to, Governors Island, New York.

(b) RIGHT OF FIRST REFUSAL.—Before a sale is made under subsection (a) to any other parties, the State of New York and the city of New York shall be given the right of first refusal to purchase all or part of Governors Island. Such right may be exercised by either the State of New York or the city of New York or by both parties acting jointly.

(c) PROCEEDS.—Proceeds from the disposal of Governors Island under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

SEC. 7003. SALE OF AIR RIGHTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall sell, at fair market value and in a manner to be determined by the Administrator, the air rights adjacent to Washington Union Station described in subsection (b), including air rights conveyed to the Administrator under subsection (d). The Administrator shall complete the sale by such date as is necessary to ensure that the proceeds from the sale will be deposited in accordance with subsection (c).

(b) DESCRIPTION.—The air rights referred to in subsection (a) total approximately 16.5 acres and are depicted on the plat map of the District of Columbia as follows:

(1) Part of lot 172, square 720.

(2) Part of lots 172 and 823, square 720.

(3) Part of lot 811, square 717.

(c) PROCEEDS.—Before September 30, 2002, proceeds from the sale of air rights under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

(d) CONVEYANCE OF AMTRAK AIR RIGHTS.—

(1) GENERAL RULE.—As a condition of future Federal financial assistance, Amtrak shall convey to the Administrator of General Services on or before December 31, 1997, at no charge, all of the air rights of Amtrak described in subsection (b).

(2) FAILURE TO COMPLY.—If Amtrak does not meet the condition established by paragraph (1), Amtrak shall be prohibited from obligating Federal funds after March 1, 1998.

TITLE VIII—COMMITTEE ON VETERANS' AFFAIRS

SEC. 8001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Veterans Reconciliation Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Sec. 8001. Short title; table of contents.

Subtitle A—Extension of Temporary Authorities

Sec. 8011. Authority to require that certain veterans make copayments in exchange for receiving health-care benefits.

Sec. 8012. Medical care cost recovery for non-service-connected disabilities of service-connected veterans.

Sec. 8013. Department of Veterans Affairs medical-care receipts.

Sec. 8014. Income verification authority.

Sec. 8015. Limitation on pension for certain recipients of medicaid-covered nursing home care.

Sec. 8016. Home loan fees.

Sec. 8017. Procedures applicable to liquidation sales on defaulted home loans guaranteed by the Secretary of Veterans Affairs.

Sec. 8018. Enhanced loan asset sale authority.

Subtitle B—Other Matters

Sec. 8021. Rounding down of cost-of-living adjustments in compensation and DIC rates.

Sec. 8022. Withholding of payments and benefits.

Subtitle A—Extension of Temporary Authorities

SEC. 8011. AUTHORITY TO REQUIRE THAT CERTAIN VETERANS MAKE COPAYMENTS IN EXCHANGE FOR RECEIVING HEALTH-CARE BENEFITS.

(a) HOSPITAL AND MEDICAL CARE.—

(1) EXTENSION.—Section 1710(f)(2)(B) of title 38, United States Code, is amended by inserting "before September 30, 2002," after "(B)".

(2) REPEAL OF SUPERSEDED PROVISION.—Section 8013(e) of the Omnibus Budget Reconciliation Act of 1990 (38 U.S.C. 1710 note) is repealed.

(b) OUTPATIENT MEDICATIONS.—Section 1722A(c) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

SEC. 8012. MEDICAL CARE COST RECOVERY FOR NON-SERVICE-CONNECTED DISABILITIES OF SERVICE-CONNECTED VETERANS.

Section 1729(a)(2)(E) of title 38, United States Code, is amended by striking out "before October 1, 1998," and inserting "before October 1, 2002,".

SEC. 8013. DEPARTMENT OF VETERANS AFFAIRS MEDICAL-CARE RECEIPTS.

(a) ALLOCATION OF RECEIPTS.—(1) Chapter 17 of title 38, United States Code, is amended by inserting after section 1729 the following new section:

"§ 1729A. Department of Veterans Affairs Medical Care Collections Fund

"(a) There is in the Treasury a fund to be known as the Department of Veterans Affairs Medical Care Collections Fund.

"(b) Amounts recovered or collected after September 30, 1997, under any of the following provisions of law shall be deposited in the fund:

"(1) Section 1710(f) of this title.

"(2) Section 1710(g) of this title.

"(3) Section 1711 of this title.

"(4) Section 1722A of this title.

"(5) Section 1729 of this title.

"(6) Public Law 87-693, popularly known as the 'Federal Medical Care Recovery Act' (42 U.S.C. 2651 et seq.), to the extent that a recovery or collection under that law is based on medical care or services furnished under this chapter.

"(c)(1) Subject to the provisions of appropriations Acts, amounts in the fund shall be available, without fiscal year limitation, to the Secretary for the following purposes:

"(A) Furnishing medical care and services under this chapter, to be available during any fiscal year for the same purposes and subject to the same limitations (other than with respect to the period of availability for obligation) as apply to amounts appropriated from the general fund of the Treasury for that fiscal year for medical care.

"(B) Expenses of the Department for the identification, billing, auditing, and collection of amounts owed the United States by reason of medical care and services furnished under this chapter.

"(2) Amounts available under paragraph (1) may not be used for any purpose other than a purpose set forth in subparagraph (A) or (B) of that paragraph.

"(2)(A) If for fiscal year 1998, 1999, or 2000 the Secretary determines that the total amount to be recovered for that fiscal year under the provisions of law specified in subsection (b) will be less than the amount contained in the latest Congressional Budget Office baseline estimate (computed under section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985) for the amount of such recoveries for that fiscal year by at least $25,000,000, the Secretary shall promptly certify to the Secretary of the Treasury the amount of the shortfall (as estimated by the Secretary) that is in excess of $25,000,000. Upon receipt of such a certification, the Secretary of the Treasury shall, not later than 30 days after receiving the certification, deposit in the fund, from any unobligated amounts in the Treasury, an amount equal to the amount certified by the Secretary.

"(B) For a fiscal year for which a deposit is made under subparagraph (A), if the Secretary subsequently determines that the actual amount recovered for that fiscal year under the provisions of law specified in subsection (b) is greater than the amount estimated by the Secretary that was used for purposes of the certification by the Secretary under subparagraph (A), the Secretary shall pay into the general fund of the Treasury, from amounts available for medical care, an amount equal to the difference between the amount actually recovered and the amount so estimated (but not in excess of the amount of the deposit under subparagraph (A) pursuant to such certification).

"(C) For a fiscal year for which a deposit is made under subparagraph (A), if the Secretary subsequently determines that the actual amount recovered for that fiscal year under the provisions of law specified in subsection (b) is less than the amount estimated by the Secretary that was used for purposes of the certification by the Secretary under subparagraph (A), the Secretary shall promptly certify to the Secretary of the Treasury the amount of the shortfall. Upon receipt of such a certification, the Secretary of the Treasury shall, not later than 30 days after receiving the certification, deposit in the fund, from any unobligated amounts in the Treasury, an amount equal to the amount certified by the Secretary.

"(d)(1) The Secretary may allocate amounts available to the Secretary under subsection (c) among components of the Department in such manner as the Secretary considers appropriate.

"(2) The Secretary shall establish a policy for the allocation under paragraph (1) of amounts in the fund. Such policy shall be designed so as to facilitate the realization of the maximum feasible collections under the provisions of law specified in subsection (b). In developing the policy, the Secretary shall take into account any factors beyond the control of the Secretary that the Secretary considers may impede such collections.

"(e)(1) The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives quarterly reports on the operation of this section for fiscal years 1998, 1999, and 2000 and for the first quarter of fiscal year 2001. Each such report shall specify the amount collected under each of the provisions specified in subsection (b) during the preceding quarter and the amount originally estimated to be collected under each such provision during such quarter.

"(2) A report under paragraph (1) for a quarter shall be submitted not later than 45 days after the end of that quarter.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1729 the following new item:

"1729A. Department of Veterans Affairs Medical Care Collections Fund.".

(b) CONFORMING AMENDMENTS.—Chapter 17 of such title is amended as follows:

(1) Section 1710(f) is amended by striking out paragraph (4) and redesignating paragraph (5) as paragraph (4).

(2) Section 1710(g) is amended by striking out paragraph (4).

(3) Section 1722A(b) is amended by striking out "Department of Veterans Affairs Medical-Care Cost Recovery Fund" and inserting in lieu thereof "Department of Veterans Affairs Medical Care Collections Fund".

(4) Section 1729 is amended by striking out subsection (g).

(c) TERMINATION OF MEDICAL-CARE COST RECOVERY FUND.—The amount of the unobligated balance remaining in the Department of Veterans Affairs Medical-Care Cost Recovery Fund (established pursuant to section 1729(g)(1) of title 38, United States Code), at the close of September 30, 1997, shall be deposited, not later than December 31, 1997, in the Treasury as miscellaneous receipts, and that fund shall be terminated when the deposit occurs.

(d) DETERMINATION OF AMOUNTS SUBJECT TO RECOVERY.—Section 1729 of title 38, United States Code, is amended—

(1) in subsection (a)(1), by striking out "the reasonable cost of" and inserting in lieu thereof "reasonable charges for";

(2) in subsection (c)(2)—

(A) by striking out "the reasonable cost of" in the first sentence of subparagraph (A) and in subparagraph (B) and inserting in lieu thereof "reasonable charges for"; and

(B) by striking out "cost" in the second sentence of subparagraph (A) and inserting in lieu thereof "charges".

(e) TECHNICAL AMENDMENT.—Paragraph (2) of section 712(b) of title 38, United States Code, is amended—

(1) by striking out subparagraph (B); and

(2) by redesignating subparagraph (C) as subparagraph (B).

(f) IMPLEMENTATION.—(1) Not later than January 1, 1999, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of this section. The report shall describe the collections under each of the provisions specified in section 1729A(b) of title 38, United States Code, as added by subsection (a). Information on such collections shall be shown for each of the health service networks (known as Veterans Integrated Service Networks) and, to the extent practicable for each facility within each such network. The Secretary shall include in the report an analysis of differences among the networks with respect to (A) the market in which the networks operates, (B) the effort expended to achieve collections, (C) the efficiency of such effort, and (D) any other relevant information.

(2) The Secretary shall adjust the allocation policy established under section 1729A(d)(2) of title 38, United States Code, as added by subsection (a), to take account of differences in collections that the Secretary determines are attributable to the different markets in which networks operate and shall include in the report under paragraph (1) a description of such adjustments.

(g) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), this section and the amendments made by this section shall take effect on October 1, 1997.

(2) The amendments made by subsection (d) shall take effect on the date of the enactment of this Act.

SEC. 8014. INCOME VERIFICATION AUTHORITY.

(a) EXTENSION.—Section 5317(g) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

(b) SOCIAL SECURITY AND TAX RETURN INFORMATION.—Section 6103(*l*)(7) of the Internal Revenue Code of 1986 is amended by striking out "Clause (viii) shall not apply after September 30, 1998" and inserting in lieu thereof "Clause (viii) shall not apply after September 30, 2002".

SEC. 8015. LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Section 5503(f)(7) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

SEC. 8016. HOME LOAN FEES.

(a) INCREASE IN LOAN FEE UNDER PROPERTY MANAGEMENT PROGRAM.—Paragraph (2) of section 3729(a) of title 38, United States Code, is amended—

(1) in subparagraph (A), by striking out "or 3733(a)";

(2) by striking out "and" at the end of subparagraph (D);

(3) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; and"; and

(4) by adding at the end the following new subparagraph:

"(F) in the case of a loan made under section 3733(a) of this title, the amount of such fee shall be 2.25 percent of the total loan amount.".

(b) EXTENSIONS.—Such section is further amended—

(1) in paragraph (4)—

(A) by striking out "October 1, 1998" and inserting in lieu thereof "October 1, 2002"; and

(B) by striking out "or (E)" and inserting in lieu thereof "(E), or (F)"; and

(2) in paragraph (5)(C), by striking out "October 1, 1998" and inserting in lieu thereof "October 1, 2002".

SEC. 8017. PROCEDURES APPLICABLE TO LIQUIDATION SALES ON DEFAULTED HOME LOANS GUARANTEED BY THE SECRETARY OF VETERANS AFFAIRS.

Section 3732(c)(11) of title 38, United States Code, is amended by striking out "October 1, 1998" and inserting "October 1, 2002".

SEC. 8018. ENHANCED LOAN ASSET SALE AUTHORITY.

Section 3720(h)(2) of title 38, United States Code, is amended by striking out "December 31, 1997" and inserting in lieu thereof "September 30, 2002".

Subtitle B—Other Matters

SEC. 8021. ROUNDING DOWN OF COST-OF-LIVING ADJUSTMENTS IN COMPENSATION AND DIC RATES.

(a) COMPENSATION COLAS.—(1) Chapter 11 of title 38, United States Code, is amended by inserting after section 1102 the following new section:

"§ 1103. Cost-of-living adjustments

"(a) In the computation of cost-of-living adjustments for fiscal years 1998 through 2002 in the rates of, and dollar limitations applicable to, compensation payable under this chapter, such adjustments shall be made by a uniform percentage that is no more than the percentage equal to the social security increase for that fiscal year, with all increased monthly rates and limitations (other than increased rates or limitations equal to a whole dollar amount) rounded down to the next lower whole dollar amount.

"(b) For purposes of this section, the term 'social security increase' means the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased for any fiscal year as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1102 the following new item:

"1103. Cost-of-living adjustments.".

(b) OUT-YEAR DIC COLAS.—(1) Chapter 13 of title 38, United States Code, is amended by inserting after section 1302 the following new section:

"§ 1303. Cost-of-living adjustments

"(a) In the computation of cost-of-living adjustments for fiscal years 1998 through 2002 in the rates of dependency and indemnity compensation payable under this chapter, such adjustments shall be made by a uniform percentage that is no more than the percentage equal to the social security increase for that fiscal year, with all increased monthly rates (other than increased rates equal to a whole dollar amount) rounded down to the next lower whole dollar amount.

"(b) For purposes of this section, the term 'social security increase' means the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased for any fiscal year as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1302 the following new item:

"1303. Cost-of-living adjustments.".

SEC. 8022. WITHHOLDING OF PAYMENTS AND BENEFITS.

(a) NOTICE REQUIRED IN LIEU OF CONSENT OR COURT ORDER.—Section 3726 of title 38, United States Code, is amended by striking out "unless" and all that follows and inserting in lieu thereof the following: "unless the Secretary provides such veteran or surviving spouse with notice by certified mail with return receipt requested of the authority of the Secretary to waive the payment of indebtedness under section 5302(b) of this title. If the Secretary does not waive the entire amount of the liability, the Secretary shall then determine whether the veteran or surviving spouse should be released from liability under section 3713(b) of this title. If the Secretary determines that the veteran or surviving spouse should not be released from liability, the Secretary shall notify the veteran or surviving spouse of that determination and provide a notice of the procedure for appealing that determination, unless the Secretary has previously made such determination and notified the veteran or surviving spouse of the procedure for appealing the determination.".

(b) CONFORMING AMENDMENT.—Section 5302(b) of such title is amended by inserting "with return receipt requested" after "certified mail".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any indebtedness to the United States arising pursuant to chapter 37 of title 38, United States Code, before, on, or after the date of the enactment of this Act.

TITLE IX—COMMITTEE ON WAYS AND MEANS—NONMEDICARE

SEC. 9000. TABLE OF CONTENTS.

The table of contents of this title is as follows:

Sec. 9000. Table of contents.

Subtitle A—TANF Block Grant

Sec. 9001. Welfare-to-work grants.
Sec. 9002. Limitation on amount of Federal funds transferable to title XX programs.
Sec. 9003. Clarification of limitation on number of persons who may be treated as engaged in work by reason of participation in vocational educational training.
Sec. 9004. Rules governing expenditures of funds for work experience and community service programs.
Sec. 9005. State option to take account of certain work activities of recipients with sufficient participation in work experience or community service programs.
Sec. 9006. Worker protections.
Sec. 9007. Penalty for failure of State to reduce assistance for recipients refusing without good cause to work.

Subtitle B—Supplemental Security Income

Sec. 9101. Requirement to perform childhood disability redeterminations in missed cases.
Sec. 9102. Repeal of maintenance of effort requirements applicable to optional State programs for supplementation of SSI benefits.
Sec. 9103. Fees for Federal administration of State supplementary payments.

Subtitle C—Child Support Enforcement

Sec. 9201. Clarification of authority to permit certain redisclosures of wage and claim information.

Subtitle D—Restricting Welfare and Public Benefits for Aliens

Sec. 9301. Extension of eligibility period for refugees and certain other qualified aliens from 5 to 7 years for SSI and medicaid.
Sec. 9302. SSI eligibility for aliens receiving SSI on August 22, 1996.
Sec. 9303. SSI eligibility for permanent resident aliens who are members of an Indian tribe.
Sec. 9304. Verification of eligibility for State and local public benefits.
Sec. 9305. Derivative eligibility for benefits.
Sec. 9306. Effective date.

Subtitle E—Unemployment Compensation

Sec. 9401. Clarifying provision relating to base periods.
Sec. 9402. Increase in Federal unemployment account ceiling.
Sec. 9403. Special distribution to States from Unemployment Trust Fund.
Sec. 9404. Interest-free advances to State accounts in Unemployment Trust Fund restricted to States which meet funding goals.
Sec. 9405. Exemption of service performed by election workers from the Federal unemployment tax.
Sec. 9406. Treatment of certain services performed by inmates.
Sec. 9407. Exemption of service performed for an elementary or secondary school operated primarily for religious purposes from the Federal unemployment tax.
Sec. 9408. State program integrity activities for unemployment compensation.

Subtitle F—Increase in Public Debt Limit

Sec. 9501. Increase in public debt limit.

Subtitle A—TANF Block Grant

SEC. 9001. WELFARE-TO-WORK GRANTS.

(a) GRANTS TO STATES.—

(1) IN GENERAL.—Section 403(a) of the Social Security Act (42 U.S.C. 603(a)) is amended by adding at the end the following:

"(5) WELFARE-TO-WORK GRANTS.—

"(A) NONCOMPETITIVE GRANTS.—

"(i) ENTITLEMENT.—A State shall be entitled to receive from the Secretary a grant for each fiscal year specified in subparagraph (H) of this paragraph for which the State is a welfare-to-work State, in an amount that does not exceed the lesser of——

"(I) 2 times the total of the expenditures by the State (excluding qualified State expenditures (as defined in section 409(a)(7)(B)(i)) and any expenditure described in subclause (I), (II), or (IV) of section 409(a)(7)(B)(iv)) during the fiscal year for activities described in subparagraph (C)(i) of this paragraph; or

"(II) the allotment of the State under clause (iii) of this subparagraph for the fiscal year.

"(ii) WELFARE-TO-WORK STATE.—A State shall be considered a welfare-to-work State for a fiscal year for purposes of this subparagraph if the Secretary, after consultation (and the sharing of any plan or amendment thereto submitted under this clause) with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, determines that the State meets the following requirements:

"(I) The State has submitted to the Secretary (in the form of an addendum to the

State plan submitted under section 402) a plan which—

"(aa) describes how, consistent with this subparagraph, the State will use any funds provided under this subparagraph during the fiscal year;

"(bb) specifies the formula to be used pursuant to clause (vi) to distribute funds in the State, and describes the process by which the formula was developed;

"(cc) contains evidence that the plan was developed in consultation and coordination with sub-State areas; and

"(dd) is approved by the agency administering the State program funded under this part.

"(II) The State has provided the Secretary with an estimate of the amount that the State intends to expend during the fiscal year (excluding expenditures described in section 409(a)(7)(B)(iv)) for activities described in subparagraph (C)(i) of this paragraph.

"(III) The State has agreed to negotiate in good faith with the Secretary of Health and Human Services with respect to the substance of any evaluation under section 413(j), and to cooperate with the conduct of any such evaluation.

"(IV) The State is an eligible State for the fiscal year.

"(V) Qualified State expenditures (within the meaning of section 409(a)(7)) are at least 80 percent of historic State expenditures (within the meaning of such section), with respect to the fiscal year or the immediately preceding fiscal year.

"(iii) ALLOTMENTS TO WELFARE-TO-WORK STATES.—The allotment of a welfare-to-work State for a fiscal year shall be the available amount for the fiscal year multiplied by the State percentage for the fiscal year.

"(iv) AVAILABLE AMOUNT.—As used in this subparagraph, the term 'available amount' means, for a fiscal year, the sum of—

"(I) 50 percent of the sum of—

"(aa) the amount specified in subparagraph (H) for the fiscal year, minus the total of the amounts reserved pursuant to subparagraphs (F) and (G) for the fiscal year; and

"(bb) any amount reserved pursuant to subparagraph (F) for the immediately preceding fiscal year that has not been obligated; and

"(II) any available amount for the immediately preceding fiscal year that has not been obligated by a State or sub-State entity.

"(v) STATE PERCENTAGE.—As used in clause (iii), the term 'State percentage' means, with respect to a fiscal year, ⅓ of the sum of—

"(aa) the percentage represented by the number of individuals in the State whose income is less than the poverty line divided by the number of such individuals in the United States;

"(bb) the percentage represented by the number of unemployed individuals in the State divided by the number of such individuals in the United States; and

"(cc) the percentage represented by the number of individuals who are adult recipients of assistance under the State program funded under this part divided by the number of individuals in the United States who are adult recipients of assistance under any State program funded under this part.

"(vi) DISTRIBUTION OF FUNDS WITHIN STATES.—

"(I) IN GENERAL.—A State to which a grant is made under this subparagraph shall distribute not less than 85 percent of the grant funds among the service delivery areas in the State, in accordance with a formula which—

"(aa) determines the amount to be distributed for the benefit of a service delivery area in proportion to the number (if any) by which the number of individuals residing in the service delivery area with an income that is less than the poverty line exceeds 5 percent of the population of the service delivery area, relative to such number for the other service delivery areas in the State, and accords a weight of not less than 50 percent to this factor;

"(bb) may determine the amount to be distributed for the benefit of a service delivery area in proportion to the number of adults residing in the service delivery area who are recipients of assistance under the State program funded under this part (whether in effect before or after the amendments made by section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act first applied to the State) for at least 30 months (whether or not consecutive) relative to the number of such adults residing in the other service delivery areas in the State; and

"(cc) may determine the amount to be distributed for the benefit of a service delivery area in proportion to the number of unemployed individuals residing in the service delivery area relative to the number of such individuals residing in the other service delivery areas in the State.

"(II) SPECIAL RULE.—Notwithstanding subclause (I), if the formula used pursuant to subclause (I) would result in the distribution of less than $100,000 during a fiscal year for the benefit of a service delivery area, then in lieu of distributing such sum in accordance with the formula, such sum shall be available for distribution under subclause (III) during the fiscal year.

"(III) PROJECTS TO HELP LONG-TERM RECIPIENTS OF ASSISTANCE INTO THE WORK FORCE.—The Governor of a State to which a grant is made under this subparagraph may distribute not more than 15 percent of the grant funds (plus any amount required to be distributed under this subclause by reason of subclause (II)) to projects that appear likely to help long-term recipients of assistance under the State program funded under this part (whether in effect before or after the amendments made by section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act first applied to the State) enter the work force.

"(vii) ADMINISTRATION.—

"(I) IN GENERAL.—A grant made under this subparagraph to a State shall be administered by the State agency that is administering, or supervising the administration of, the State program funded under this part, or by another State agency designated by the Governor of the State.

"(II) SPENDING BY PRIVATE INDUSTRY COUNCILS.—The private industry council for a service delivery area shall have sole authority to expend the amounts provided for the benefit of a service delivery area under subparagraph (vi)(I), pursuant to an agreement with the agency that is administering the State program funded under this part in the service delivery area.

"(B) COMPETITIVE GRANTS.—

"(i) IN GENERAL.—The Secretary, in consultation with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, shall award grants in accordance with this subparagraph, in fiscal years 1998 and 1999, for projects proposed by eligible applicants, based on the following:

"(I) The effectiveness of the proposal in—

"(aa) expanding the base of knowledge about programs aimed at moving recipients of assistance under State programs funded under this part who are least job ready into the work force.

"(bb) moving recipients of assistance under State programs funded under this part who are least job ready into the work force; and

"(cc) moving recipients of assistance under State programs funded under this part who are least job ready into the work force, even in labor markets that have a shortage of low-skill jobs.

"(II) At the discretion of the Secretary, any of the following:

"(aa) The history of success of the applicant in moving individuals with multiple barriers into work.

"(bb) Evidence of the applicant's ability to leverage private, State, and local resources.

"(cc) Use by the applicant of State and local resources beyond those required by subparagraph (A).

"(dd) Plans of the applicant to coordiate with other organizations at the local and State level.

"(ee) Use by the applicant of current or former recipients of assistance under a State program funded under this part as mentors, case managers, or service providers.

"(ii) ELIGIBLE APPLICANTS.—As used in clause (i), the term 'eligible applicant' means a private industry council or a political subdivision of a State that submits a proposal that is approved by the agency administering the State program funded under this part.

"(iii) DETERMINATION OF GRANT AMOUNT.—In determining the amount of a grant to be made under this subparagraph for a project proposed by an applicant, the Secretary shall provide the applicant with an amount sufficient to ensure that the project has a reasonable opportunity to be successful, taking into account the number of long-term recipients of assistance under a State program funded under this part, the level of unemployment, the job opportunities and job growth, the poverty rate, and such other factors as the Secretary deems appropriate, in the area to be served by the project.

"(iv) TARGETING OF FUNDS TO CERTAIN AREAS.—

"(I) CITIES WITH GREATEST NUMBER OF PERSONS WITH INCOME LESS THAN THE POVERTY LINE.—The Secretary shall use not less than 65 percent of the funds available for grants under this subparagraph for a fiscal year to award grants for expenditures in cities that are among the 100 cities in the United States with the highest number of residents with an income that is less than the poverty line.

"(II) RURAL AREAS.—

"(aa) IN GENERAL.—The Secretary shall use not less than 25 percent of the funds available for grants under this subparagraph for a fiscal year to award grants for expenditures in rural areas.

"(bb) RURAL AREA DEFINED.—As used in item (aa), the term 'rural area' means a city, town, or unincorporated area that has a population of 50,000 or fewer inhabitants and that is not an urbanized area immediately adjacent to a city, town, or unincorporated area that has a population of more than 50,000 inhabitants.

"(v) FUNDING.—For grants under this subparagraph for each fiscal year specified in subparagraph (H), there shall be available to the Secretary an amount equal to the sum of—

"(I) 50 percent of the sum of—

"(aa) the amount specified in subparagraph (H) for the fiscal year, minus the total of the amounts reserved pursuant to subparagraphs (F) and (G) for the fiscal year; and

"(bb) any amount reserved pursuant to subparagraph (F) for the immediately preceding fiscal year that has not been obligated; and

"(II) any amount available for grants under this subparagraph for the immediately preceding fiscal year that has not been obligated.

"(C) LIMITATIONS ON USE OF FUNDS.—

"(i) ALLOWABLE ACTIVITIES.—An entity to which funds are provided under this paragraph may use the funds to move into the work force recipients of assistance under the program funded under this part of the State in which the entity is located and the noncustodial parent of any minor who is such a recipient, by means of any of the following:

"(I) Job creation through public or private sector employment wage subsidies.

"(II) On-the-job training.

"(III) Contracts with public or private providers of readiness, placement, and post-employment services.

"(IV) Job vouchers for placement, readiness, and postemployment services.

"(V) Job support services (excluding child care services) if such services are not otherwise available.

"(ii) REQUIRED BENEFICIARIES.—An entity that operates a project with funds provided under this paragraph shall expend at least 90 percent of all funds provided to the project for the benefit of recipients of assistance under the program funded under this part of the State in which the entity is located who meet the requirements of each of the following subclauses:

"(I) At least 2 of the following apply to the recipient:

"(aa) The individual has not completed secondary school or obtained a certificate of general equivalency, and has low skills in reading and mathematics.

"(bb) The individual requires substance abuse treatment for employment.

"(cc) The individual has a poor work history.

The Secretary shall prescribe such regulations as may be necessary to interpret this subclause.

"(II) The individual—

"(aa) has received assistance under the State program funded under this part (whether in effect before or after the amendments made by section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 first apply to the State) for at least 30 months (whether or not consecutive); or

"(bb) within 12 months, will become ineligible for assistance under the State program funded under this part by reason of a durational limit on such assistance, without regard to any exemption provided pursuant to section 408(a)(7)(C) that may apply to the individual.

"(iii) LIMITATION ON APPLICABILITY OF SECTION 404.—The rules of section 404, other than subsections (b), (f), and (h) of section 404, shall not apply to a grant made under this paragraph.

"(iv) LIMITATIONS RELATING TO PRIVATE INDUSTRY COUNCILS.—

"(I) NO DIRECT PROVISION OF SERVICES.—A private industry council may not directly provide services using funds provided under this paragraph.

"(II) COOPERATION WITH TANF AGENCY.—On a determination by the Secretary, in consultation with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, that the private industry council for a service delivery area in a State for which funds are provided under this paragraph and the agency administering the State program funded under this part are not adhering to the agreement referred to in subparagraph (A)(vii)(II) to implement any plan or project for which the funds are provided, the recipient of the funds shall remit the funds to the Secretary.

"(v) PROHIBITION AGAINST USE OF GRANT FUNDS FOR ANY OTHER FUND MATCHING REQUIREMENT.—An entity to which funds are provided under this paragraph shall not use any part of the funds to fulfill any obligation of any State, political subdivision, or private industry council to contribute funds under other Federal law.

"(vi) DEADLINE FOR EXPENDITURE.—An entity to which funds are provided under this paragraph shall remit to the Secretary any part of the funds that are not expended within 3 years after the date the funds are so provided.

"(D) INDIVIDUALS WITH INCOME LESS THAN THE POVERTY LINE.—For purposes of this paragraph, the number of individuals with an income that is less than the poverty line shall be determined based on the methodology used by the Bureau of the Census to produce and publish intercensal poverty data for 1993 for States and counties.

"(E) DEFINITIONS.—As used in this paragraph:

"(i) PRIVATE INDUSTRY COUNCIL.—The term 'private industry council' means, with respect to a service delivery area, the private industry council (or successor entity) established for the service delivery area pursuant to the Job Training Partnership Act.

"(ii) SECRETARY.—The term 'Secretary' means the Secretary of Labor, except as otherwise expressly provided.

"(iii) SERVICE DELIVERY AREA.—The term 'service delivery area' shall have the meaning given such term for purposes of the Job Training Partnership Act.

"(F) SET-ASIDE FOR INDIAN TRIBES.—1 percent of the amount specified in subparagraph (H) for each fiscal year shall be reserved for grants to Indian tribes under section 412(a)(3).

"(G) SET-ASIDE FOR EVALUATIONS.—0.5 percent of the amount specified in subparagraph (H) for each fiscal year shall be reserved for use by the Secretary of Health and Human Services to carry out section 413(j).

"(H) FUNDING.—The amount specified in this subparagraph is $1,500,000,000 for each of fiscal years 1998 and 1999.

"(I) BUDGET SCORING.—Notwithstanding section 457(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985, the baseline shall assume that no grant shall be awarded under this paragraph or under section 412(a)(3) after fiscal year 2000.

(2) CONFORMING AMENDMENT.—Section 409(a)(7)(B)(iv) of such Act (42 U.S.C. 609(a)(7)(B)(iv)) is amended to read as follows:

"(iv) EXPENDITURES BY THE STATE.—The term 'expenditures by the State' does not include—

"(I) any expenditure from amounts made available by the Federal Government;

"(II) any State funds expended for the medicaid program under title XIX;

"(III) any State funds which are used to match Federal funds provided under section 403(a)(5); or

"(IV) any State funds which are expended as a condition of recieving Federal funds other than under this part.

Notwithstanding subclause (IV) of the preceding sentence, such term includes expenditures by a State for child care in a fiscal year to the extent that the total amount of the expenditures does not exceed the amount of State expenditures in fiscal year 1994 or 1995 (whichever is the greater) that equal the non-Federal share for the programs described in section 418(a)(1)(A).".

(b) GRANTS TO OUTLYING AREAS.—Section 1108(a) of such Act (42 U.S.C. 1308(a)) is amended by inserting "(except section 403(a)(5))" after "title IV".

(c) GRANTS TO INDIAN TRIBES.—Section 412(a) of such Act (42 U.S.C. 612(a)) is amended by adding at the end the following:

"(3) WELFARE-TO-WORK GRANTS.—

"(A) IN GENERAL.—The Secretary shall award a grant in accordance with this paragraph to an Indian tribe for each fiscal year specified in section 403(a)(5)(H) for which the Indian tribe is a welfare-to-work tribe, in such amount as the Secretary deems appropriate, subject to subparagraph (B) of this paragraph.

"(B) WELFARE-TO-WORK TRIBE.—An Indian tribe shall be considered a welfare-to-work tribe for a fiscal year for purposes of this paragraph if the Indian tribe meets the following requirements:

"(i) The Indian tribe has submitted to the Secretary (in the form of an addendum to the tribal family assistance plan, if any, of the Indian tribe) a plan which describes how, consistent with section 403(a)(5), the Indian tribe will use any funds provided under this paragraph during the fiscal year.

"(ii) The Indian tribe has provided the Secretary with an estimate of the amount that the Indian tribe intends to expend during the fiscal year (excluding tribal expenditures described in section 409(a)(7)(B)(iv)) for activities described in section 403(a)(5)(C)(i).

"(iii) The Indian tribe has agreed to negotiate in good faith with the Secretary of Health and Human Services with respect to the substance of any evaluation under section 413(j), and to cooperate with the conduct of any such evaluation.

"(C) LIMITATIONS ON USE OF FUNDS.—Section 403(a)(5)(C) shall apply to funds provided to Indian tribes under this paragraph in the same manner in which such section applies to funds provided under section 403(a)(5).".

(d) FUNDS RECEIVED FROM GRANTS TO BE DISREGARDED IN APPLYING DURATIONAL LIMIT ON ASSISTANCE.—Section 408(a)(7) of such Act (42 U.S.C. 608(a)(7)) is amended by adding at the end the following:

"(G) INAPPLICABILITY TO WELFARE-TO-WORK GRANTS AND ASSISTANCE.—For purposes of subparagraph (A) of this paragraph, a grant made under section 403(a)(5) shall not be considered a grant made under section 403, and assistance from funds provided under section 403(a)(5) shall not be considered assistance.".

(e) EVALUATIONS.—Section 413 of such Act (42 U.S.C. 613) is amended by adding at the end the following:

"(j) EVALUATION OF WELFARE-TO-WORK PROGRAMS.—

"(1) EVALUATION.—The Secretary—

"(A) shall, in consultation with the Secretary of Labor, develop a plan to evaluate how grants made under sections 403(a)(5) and 412(a)(3) have been used;

"(B) may evaluate the use of such grants by such grantees as the Secretary deems appropriate, in accordance with an agreement entered into with the grantees after good-faith negotiations; and

"(C) is urged to include the following outcome measures in the plan developed under subparagraph (A):

"(i) Placements in the labor force and placements in the labor force that last for at least 6 months.

"(ii) Placements in the private and public sectors.

"(iii) Earnings of individuals who obtain employment.

"(iv) Average expenditures per placement.

"(2) REPORTS TO THE CONGRESS.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Secretary, in consultation with the Secretary of Labor and the Secretary of Housing and Urban Development, shall submit to the Congress reports on the projects funded under section 403(a)(5) and 412(a)(3) and on the evaluations of the projects.

"(B) INTERIM REPORT.—Not later than January 1, 1999, the Secretary shall submit an interim report on the matter described in subparagraph (A).

"(C) FINAL REPORT.—Not later than January 1, 2001, (or at a later date, if the Secretary informs the Committees of the Congress with jurisdiction over the subject matter of the report) the Secretary shall submit a final report on the matter described in subparagraph (A).".

SEC. 9002. LIMITATION ON AMOUNT OF FEDERAL FUNDS TRANSFERABLE TO TITLE XX PROGRAMS.

(a) IN GENERAL.—Section 404(d) of the Social Security Act (42 U.S.C. 604(d)) is amended—

(1) in paragraph (1), by striking "A State may" and inserting "Subject to paragraph (2), a State may"; and

(2) by amending paragraph (2) to read as follows:

"(2) LIMITATION ON AMOUNT TRANSFERABLE TO TITLE XX PROGRAMS.—A State may use not more than 10 percent of the amount of any grant made to the State under section 403(a) for a fiscal year to carry out State programs pursuant to title XX.".

(b) RETROACTIVITY.—The amendments made by subsection (a) of this section shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 9003. CLARIFICATION OF LIMITATION ON NUMBER OF PERSONS WHO MAY BE TREATED AS ENGAGED IN WORK BY REASON OF PARTICIPATION IN VOCATIONAL EDUCATIONAL TRAINING.

(a) IN GENERAL.—Section 407(c)(2)(D) of the Social Security Act (42 U.S.C. 607(c)(2)(D)) is amended to read as follows:

"(D) LIMITATION ON NUMBER OF PERSONS WHO MAY BE TREATED AS ENGAGED IN WORK BY REASON OF PARTICIPATION IN VOCATIONAL EDUCATIONAL TRAINING.—For purposes of determining monthly participation rates under paragraphs (1)(B)(i) and (2)(B) of subsection (b), not more than 30 percent of the number of individuals in all families and in 2-parent families, respectively, in a State who are treated as engaged in work for a month may consist of individuals who are determined to be engaged in work for the month by reason of participation in vocational educational training.".

(b) RETROACTIVITY.—The amendment made by subsection (a) of this section shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 9004. RULES GOVERNING EXPENDITURE OF FUNDS FOR WORK EXPERIENCE AND COMMUNITY SERVICE PROGRAMS.

(a) IN GENERAL.—Section 407 of the Social Security Act (42 U.S.C. 607) is amended by adding at the end the following:

"(j) RULES GOVERNING EXPENDITURE OF FUNDS FOR WORK EXPERIENCE AND COMMUNITY SERVICE PROGRAMS.—

"(1) IN GENERAL.—To the extent that a State to which a grant is made under section 403(a)(5) or any other provision of section 403 uses the grant to establish or operate a work experience or community service program, the State may establish and operate the program in accordance with this subsection.

"(2) PURPOSE.—The purpose of a work experience or community experience program is to provide experience or training for individuals not able to obtain employment in order to assist them to move to regular employment. Such a program shall be designed to improve the employability of participants through actual work experience to enable individuals participating in the program to move promptly into regular public or private employment. Such a program shall not place individuals in private, for-profit entities.

"(3) LIMITATION ON PROJECTS THAT MAY BE UNDERTAKEN.—A work experience or community service program shall be limited to projects which serve a useful public purpose in fields such as health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and day care, and other purposes identified by the State.

"(4) MAXIMUM HOURS OF PARTICIPATION PER MONTH.—A State that elects to establish a work experience or community service program shall operate the program so that each participant participates in the program with the maximum number of hours that any such individual may be required to participate in any month being a number equal to—

"(A)(i) the amount of assistance provided during the month to the family of which the individual is a member under the State program funded under this part; plus

"(ii) the dollar value equivalent of any benefits provided during the month to the household of which the individual is a member under the food stamp program under the Food Stamp Act of 1977; minus

"(iii) any amount collected by the State as child support with respect to the family that is retained by the State; divided by

"(B) the greater of the Federal minimum wage or the applicable State minimum wage.

"(5) MAXIMUM HOURS OF PARTICIPATION PER WEEK.—A State that elects to establish a work experience or community service program may not require any participant in any such program to participate in any such program for a combined total of more than 40 hours per week.

"(6) RULE OF INTERPRETATION.—This subsection shall not be construed as authorizing the provision of assistance under a State program funded under this part as compensation for work performed, nor shall a participant be entitled to a salary or to any other work or training expense provided under any other provision of law by reason of participation in a work experience or community service program described in this subsection.".

(b) RETROACTIVITY.—The amendment made by subsection (a) of this section shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 9005. STATE OPTION TO TAKE ACCOUNT OF CERTAIN WORK ACTIVITIES OF RECIPIENTS WITH SUFFICIENT PARTICIPATION IN WORK EXPERIENCE OR COMMUNITY SERVICE PROGRAMS.

(a) IN GENERAL.—Section 407(c) of the Social Security Act (42 U.S.C. 607(c)) is amended by adding at the end the following:

"(3) STATE OPTION TO TAKE ACCOUNT OF CERTAIN WORK ACTIVITIES OF RECIPIENTS WITH SUFFICIENT PARTICIPATION IN WORK EXPERIENCE OR COMMUNITY SERVICE PROGRAMS.—Notwithstanding paragraphs (1) and (2) of this subsection and subsection (d)(8), for purposes of determining monthly participation rates under paragraphs (1)(B)(i) and (2)(B) of subsection (b), an individual who, during a month, has participated in a work experience or community service program operated in accordance with subsection (j), for the maximum number of hours that the individual may be required to participate in such a program during the month shall be treated as engaged in work for the month if, during the month, the individual has participated in any other work activity for a number of hours that is not less than the number of hours required by subsection (c)(1) for the month minus such maximum number of hours.".

(b) RETROACTIVITY.—The amendment made by subsection (a) of this section shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 9006. WORKER PROTECTIONS.

Section 407(f) of the Social Security Act (42 U.S.C. 607(f)) is amended to read as follows:

"(f) WORKER PROTECTIONS.—

"(1) NONDISPLACEMENT IN WORK ACTIVITIES.—

"(A) GENERAL PROHIBITION.—Subject to this paragraph, an adult in a family receiving assistance under a State program funded under this part attributable to funds provided by the Federal Government may fill a vacant employment position in order to engage in a work activity.

"(B) PROHIBITION AGAINST VIOLATION OF CONTRACTS.—A work activity shall not violate an existing contract for services or collective bargaining agreement.

"(C) OTHER PROHIBITIONS.—An adult participant in a work activity shall not be employed or assigned—

"(i) when any other individual is on layoff from the same or any substantially equivalent job; or

"(ii) if the employer has terminated the employment of any regular employee or otherwise caused an involuntary reduction if its workforce with the intention of filling the vacancy so created with the participant.

"(2) HEALTH AND SAFETY.—Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees shall be equally applicable to working conditions of participants engaged in a work activity.

"(3) NONDISCRIMINATION.—In addition to the protections provided under the provisions of law specified in section 408(c), an individual may not be discriminated against with respect to participation in work activities by reason of gender.

"(4) GRIEVANCE PROCEDURE.—

"(A) IN GENERAL.—Each State to which a grant is made under section 403 shall establish and maintain a procedure for grievances or complaints from employees alleging violations of paragraph (1) and participants in work activities alleging violations of paragraph (1), (2), or (3).

"(B) HEARING.—The procedure shall include an opportunity for a hearing.

"(C) REMEDIES.—The procedure shall include remedies for violation of paragraph (1), (2), or (3), which may include—

"(i) prohibition against placement of a participant with an employer that has violated paragraph (1), (2), or (3);

"(ii) where applicable, reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant

terms, conditions and privileges of employment; and

"(iii) where appropriate, other equitable relief.

"(5) NONPREEMPTION OF STATE NONDISPLACEMENT LAWS.—The provisions of this subsection relating to nondisplacement of employees shall not be construed to preempt any provision of State law relating to nondisplacement of employees that affords greater protections to employees than is afforded by such provisions of this subsection.".

SEC. 9007. PENALTY FOR FAILURE OF STATE TO REDUCE ASSISTANCE FOR RECIPIENTS REFUSING WITHOUT GOOD CAUSE TO WORK.

(a) IN GENERAL.—Section 409(a) of the Social Security Act (42 U.S.C. 609(a)) is amended by adding at the end the following:

"(13) PENALTY FOR FAILURE TO REDUCE ASSISTANCE FOR RECIPIENTS REFUSING WITHOUT GOOD CAUSE TO WORK.—

"(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 403 in a fiscal year has violated section 407(e) during the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not less than 1 percent and not more than 5 percent of the State family assistance grant.

"(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of noncompliance.".

(b) RETROACTIVITY.—The amendment made by subsection (a) of this section shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Subtitle B—Supplemental Security Income

SEC. 9101. REQUIREMENT TO PERFORM CHILDHOOD DISABILITY REDETERMINATIONS IN MISSED CASES.

Section 211(d)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (110 Stat. 2190) is amended—

(1) in subparagraph (A)—

(A) in the 1st sentence, by striking "1 year" and inserting "18 months"; and

(B) by inserting after the 1st sentence the following: "Any redetermination required by the preceding sentence that is not performed before the end of the period described in the preceding sentence shall be performed as soon as is practicable thereafter."; and

(2) in subparagraph (C), by adding at the end the following: "Before commencing a redetermination under the 2nd sentence of subparagraph (A), in any case in which the individual involved has not already been notified of the provisions of this paragraph, the Commissioner of Social Security shall notify the individual involved of the provisions of this paragraph.".

SEC. 9102. REPEAL OF MAINTENANCE OF EFFORT REQUIREMENTS APPLICABLE TO OPTIONAL STATE PROGRAMS FOR SUPPLEMENTATION OF SSI BENEFITS.

Section 1618 of the Social Security Act (42 U.S.C. 1382g) is repealed.

SEC. 9103. FEES FOR FEDERAL ADMINISTRATION OF STATE SUPPLEMENTARY PAYMENTS.

(a) FEE SCHEDULE.—

(1) OPTIONAL STATE SUPPLEMENTARY PAYMENTS.—

(A) IN GENERAL.—Section 1616(d)(2)(B) of the Social Security Act (42 U.S.C. 1382e(d)(2)(B)) is amended—

(i) by striking "and" at the end of clause (iii); and

(ii) by striking clause (iv) and inserting the following:

"(iv) for fiscal year 1997, $5.00;

"(v) for fiscal year 1998, $6.20;

"(vi) for fiscal year 1999, $7.60;

"(vii) for fiscal year 2000, $7.80;

"(viii) for fiscal year 2001, $8.10;

"(ix) for fiscal year 2002, $8.50; and

"(x) for fiscal year 2003 and each succeeding fiscal year—

"(I) the applicable rate in the preceding fiscal year, increased by the percentage, if any, by which the Consumer Price Index for the month of June of the calendar year of the increase exceeds the Consumer Price Index for the month of June of the calendar year preceding the calendar year of the increase, and rounded to the nearest whole cent; or

"(II) such different rate as the Commissioner determines is appropriate for the State.".

(B) CONFORMING AMENDMENT.—Section 1616(d)(2)(C) of such Act (42 U.S.C. 1382e(d)(2)(C)) is amended by striking "(B)(iv)" and inserting "(B)(x)(II)".

(2) MANDATORY STATE SUPPLEMENTARY PAYMENTS.—

(A) IN GENERAL.—Section 212(b)(3)(B)(ii) of Public Law 93-66 (42 U.S.C. 1382 note) is amended—

(i) by striking "and" at the end of subclause (III); and

(ii) by striking subclause (IV) and inserting the following:

"(IV) for fiscal year 1997, $5.00;

"(V) for fiscal year 1998, $6.20;

"(VI) for fiscal year 1999, $7.60;

"(VII) for fiscal year 2000, $7.80;

"(VIII) for fiscal year 2001, $8.10;

"(IX) for fiscal year 2002, $8.50; and

"(X) for fiscal year 2003 and each succeeding fiscal year—

"(aa) the applicable rate in the preceding fiscal year, increased by the percentage, if any, by which the Consumer Price Index for the month of June of the calendar year of the increase exceeds the Consumer Price Index for the month of June of the calendar year preceding the calendar year of the increase, and rounded to the nearest whole cent; or

"(bb) such different rate as the Commissioner determines is appropriate for the State.".

(B) CONFORMING AMENDMENT.—Section 212(b)(3)(B)(iii) of such Act (42 U.S.C. 1382 note) is amended by striking "(ii)(IV)" and inserting "(ii)(X)(bb)".

(b) USE OF NEW FEES TO DEFRAY THE SOCIAL SECURITY ADMINISTRATION'S ADMINISTRATIVE EXPENSES.—

(1) CREDIT TO SPECIAL FUND FOR FISCAL YEAR 1998 AND SUBSEQUENT YEARS.—

(A) OPTIONAL STATE SUPPLEMENTARY PAYMENT FEES.—Section 1616(d)(4) of the Social Security Act (42 U.S.C. 1382e(d)(4)) is amended to read as follows:

"(4)(A) The first $5 of each administration fee assessed pursuant to paragraph (2), upon collection, shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.

"(B) That portion of each administration fee in excess of $5, and 100 percent of each additional services fee charged pursuant to paragraph (3), upon collection for fiscal year 1998 and each subsequent fiscal year, shall be credited to a special fund established in the Treasury of the United States for State supplementary payment fees. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out this title and related laws.".

(B) MANDATORY STATE SUPPLEMENTARY PAYMENT FEES.—Section 212(b)(3)(D) of Public Law 93-66 (42 U.S.C. 1382 note) is amended to read as follows:

"(D)(i) The first $5 of each administration fee assessed pursuant to subparagraph (B), upon collection, shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.

"(ii) The portion of each administration fee in excess of $5, and 100 percent of each additional services fee charged pursuant to subparagraph (C), upon collection for fiscal year 1998 and each subsequent fiscal year, shall be credited to a special fund established in the Treasury of the United States for State supplementary payment fees. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out this section and title XVI of the Social Security Act and related laws.".

(2) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—From amounts credited pursuant to section 1616(d)(4)(B) of the Social Security Act and section 212(b)(3)(D)(ii) of Public Law 93-66 to the special fund established in the Treasury of the United States for State supplementary payment fees, there is authorized to be appropriated an amount not to exceed $35,000,000 for fiscal year 1998, and such sums as may be necessary for each fiscal year thereafter.

Subtitle C—Child Support Enforcement

SEC. 9201. CLARIFICATION OF AUTHORITY TO PERMIT CERTAIN REDISCLOSURES OF WAGE AND CLAIM INFORMATION.

Section 303(h)(1)(C) of the Social Security Act (42 U.S.C. 503(h)(1)(C)) is amended by striking "section 453(i)(1) in carrying out the child support enforcement program under title IV" and inserting "subsections (i)(1), (i)(3), and (j) of section 453".

Subtitle D—Restricting Welfare and Public Benefits for Aliens

SEC. 9301. EXTENSION OF ELIGIBILITY PERIOD FOR REFUGEES AND CERTAIN OTHER QUALIFIED ALIENS FROM 5 TO 7 YEARS FOR SSI AND MEDICAID.

(a) SSI.—Section 402(a)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(A)) is amended to read as follows:

"(A) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.—

"(i) SSI.—With respect to the specified Federal program described in paragraph (3)(A) paragraph 1 shall not apply to an alien until 7 years after the date—

"(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

"(II) an alien is granted asylum under section 208 of such Act; or

"(III) an alien's deportation is withheld under section 243(h) of such Act.

"(ii) FOOD STAMPS.—With respect to the specified Federal program described in paragraph (3)(B), paragraph 1 shall not apply to an alien until 5 years after the date—

"(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

"(II) an alien is granted asylum under section 208 of such Act; or

"(III) an alien's deportation is withheld under section 243(h) of such Act.".

(b) MEDICAID.—Section 402(b)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(b)(2)(A)) is amended to read as follows:

"(A) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.—

"(i) MEDICAID.—With respect to the designated Federal program described in paragraph (3)(C), paragraph 1 shall not apply to an alien until 7 years after the date—

"(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

"(II) an alien is granted asylum under section 208 of such Act; or

"(III) an alien's deportation is withheld under section 243(h) of such Act.

"(ii) OTHER DESIGNATED FEDERAL PROGRAMS.—With respect to the designated Federal programs under paragraph (3) (other than subparagraph (C)), paragraph 1 shall not apply to an alien until 5 years after the date—

"(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

"(II) an alien is granted asylum under section 208 of such Act; or

"(III) an alien's deportation is withheld under section 243(h) of such Act.".

SEC. 9302. SSI ELIGIBILITY FOR ALIENS RECEIVING SSI ON AUGUST 22, 1996.

(a) IN GENERAL.—Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) is amended by adding after subparagraph (D) the following new subparagraph:

"(E) ALIENS RECEIVING SSI ON AUGUST 22, 1996.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1) shall not apply to an alien who was receiving such benefits on August 22, 1996.".

(b) STATUS OF CUBAN AND HAITIAN ENTRANTS AND AMERASIAN PERMANENT RESIDENT ALIENS.—For purposes of section 402(a)(2)(E) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the following aliens shall be considered qualified aliens:

(1) An alien who is a Cuban and Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980.

(2) An alien admitted to the United States as an Amerasian immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as contained in section 101(e) of Public Law 100-202, (other than an alien admitted pursuant to section 584(b)(1)(C)).

(c) CONFORMING AMENDMENTS.—Section 402(a)(2)(D) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(D)) is amended—

(1) by striking clause (i);

(2) in the subparagraph heading by striking "BENEFITS" and inserting "FOOD STAMPS";

(3) by striking "(ii) FOOD STAMPS'.—';

(3) by redesignating subclauses (I), (II), and (III) as clauses (i), (ii), and (iii).

SEC. 9303. SSI ELIGIBILITY FOR PERMANENT RESIDENT ALIENS WHO ARE MEMBERS OF AN INDIAN TRIBE.

Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) (as amended by section 9302) is amended by adding after subparagraph (E) the following new subparagraph:

"(F) PERMANENT RESIDENT ALIENS WHO ARE MEMBERS OF AN INDIAN TRIBE.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1) shall not apply to an alien who—

"(i) is lawfully admitted for permanent residence under the Immigration and Nationality Act; and

"(ii) is a member of an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act).".

SEC. 9304. VERIFICATION OF ELIGIBILITY FOR STATE AND LOCAL PUBLIC BENEFITS.

(a) IN GENERAL.—The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended by adding after section 412 the following new section:

"SEC. 413. AUTHORIZATION FOR VERIFICATION OF ELIGIBILITY FOR STATE AND LOCAL PUBLIC BENEFITS.

"A State or political subdivision of a State is authorized to require an applicant for State and local public benefits (as defined in section 411(c)) to provide proof of eligibility.".

(b) CLERICAL AMENDMENT.—Section 2 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended by adding after the item related to section 412 the following:

"Sec. 413. Authorization for verification of eligibility for state and local public benefits.".

SEC. 9305. DERIVATIVE ELIGIBILITY FOR BENEFITS.

(a) IN GENERAL.—The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended by adding after section 435 the following new section:

"SEC. 436. DERIVATIVE ELIGIBILITY FOR BENEFITS.

"(a) FOOD STAMPS.—Notwithstanding any other provision of law, an alien who under the provisions of this title is ineligible for benefits under the food stamp program (as defined in section 402(a)(3)(A)) shall not be eligible for such benefits because the alien receives benefits under the supplemental security income program (as defined in section 402(a)(3)(B)).

"(b) MEDICAID.—Notwithstanding any other provision of this title, an alien who under the provisions of this title is ineligible for benefits under the medicaid program (as defined in section 402(b)(3)(C)) shall be eligible for such benefits if the alien is receiving benefits under the supplemental security income program and title XIX of the Social Security Act provides for such derivative eligibility.".

(b) CLERICAL AMENDMENT.—Section 2 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended by adding after the item related to section 435 the following:

"Sec. 436. Derivative eligibility for benefits.".

SEC. 9306. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subtitle shall be effective as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Subtitle E—Unemployment Compensation

SEC. 9401. CLARIFYING PROVISION RELATING TO BASE PERIODS.

(a) IN GENERAL.—No provision of a State law under which the base period for such State is defined or otherwise determined shall, for purposes of section 303(a)(1) of the Social Security Act (42 U.S.C. 503(a)(1)), be considered a provision for a method of administration.

(b) DEFINITIONS.—For purposes of this section, the terms "State law", "base period", and "State" shall have the meanings given them under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

(c) EFFECTIVE DATE.—This section shall apply for purposes of any period beginning before, on, or after the date of the enactment of this Act.

SEC. 9402. INCREASE IN FEDERAL UNEMPLOYMENT ACCOUNT CEILING.

(a) IN GENERAL.—Section 902(a)(2) of the Social Security Act (42 U.S.C. 1102(a)(2)) is amended by striking "0.25 percent" and inserting "0.5 percent".

(b) EFFECTIVE DATE.—This section and the amendment made by this section—

(1) shall take effect on October 1, 2001, and

(2) shall apply to fiscal years beginning on or after that date.

SEC. 9403. SPECIAL DISTRIBUTION TO STATES FROM UNEMPLOYMENT TRUST FUND.

(a) IN GENERAL.—Subsection (a) of section 903 of the Social Security Act (42 U.S.C. 1103(a)) is amended by adding at the end the following new paragraph:

"(3)(A) Notwithstanding any other provision of this section, for purposes of carrying out this subsection with respect to any excess amount (referred to in paragraph (1)) remaining in the employment security administration account as of the close of fiscal year 1999, 2000, or 2001, such amount shall—

"(i) to the extent of any amounts not in excess of $100,000,000, be subject to subparagraph (B), and

"(ii) to the extent of any amounts in excess of $100,000,000, be subject to subparagraph (C).

"(B) Paragraphs (1) and (2) shall apply with respect to any amounts described in subparagraph (A)(i), except that—

"(i) in carrying out the provisions of paragraph (2)(B) with respect to such amounts (to determine the portion of such amounts which is to be allocated to a State for a succeeding fiscal year), the ratio to be applied under such provisions shall be the same as the ratio that—

"(I) the amount of funds to be allocated to such State for such fiscal year pursuant to title III, bears to

"(II) the total amount of funds to be allocated to all States for such fiscal year pursuant to title III,

as determined by the Secretary of Labor, and

"(ii) the amounts allocated to a State pursuant to this subparagraph shall be available to such State, subject to the last sentence of subsection (c)(2).

Nothing in this paragraph shall preclude the application of subsection (b) with respect to any allocation determined under this subparagraph.

"(C) Any amounts described in clause (ii) of subparagraph (A) (remaining in the employment security administration account as of the close of any fiscal year specified in such subparagraph) shall, as of the beginning of the succeeding fiscal year, accrue to the Federal unemployment account, without regard to the limit provided in section 902(a)."

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 903(c) of the Social Security Act is amended by adding at the end, as a flush left sentence, the following:

"Any amount allocated to a State under this section for fiscal year 2000, 2001, or 2002 may be used by such State only to pay expenses incurred by it for the administration of its unemployment compensation law, and may be so used by it without regard to any of the conditions prescribed in any of the preceding provisions of this paragraph."

SEC. 9404. INTEREST-FREE ADVANCES TO STATE ACCOUNTS IN UNEMPLOYMENT TRUST FUND RESTRICTED TO STATES WHICH MEET FUNDING GOALS.

(a) IN GENERAL.—Paragraph (2) of section 1202(b) of the Social Security Act (42 U.S.C. 1322(b)) is amended—

(1) by striking "and" at the end of subparagraph (A),

(2) by striking the period at the end of subparagraph (B) and inserting ", and", and

(3) by adding at the end the following new subparagraph:

"(C) the average daily balance in the account of such State in the Unemployment Trust Fund for each of 4 of the 5 calendar quarters preceding the calendar quarter in which such advances were made exceeds the funding goal of such State (as defined in subsection (d))."

(b) FUNDING GOAL DEFINED.—Section 1202 of the Social Security Act is amended by adding at the end the following new subsection:

"(d) For purposes of subsection (b)(2)(C), the term 'funding goal' means, for any State for any calendar quarter, the average of the unemployment insurance benefits paid by such State during each of the 3 years, in the 20-year period ending with the calendar year containing such calendar quarter, during which the State paid the greatest amount of unemployment benefits."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after the date of the enactment of this Act.

SEC. 9405. EXEMPTION OF SERVICE PERFORMED BY ELECTION WORKERS FROM THE FEDERAL UNEMPLOYMENT TAX.

(a) IN GENERAL.—Paragraph (3) of section 3309(b) of the Internal Revenue Code of 1986 (relating to exemption for certain services) is amended—

(1) by striking "or" at the end of subparagraph (D),

(2) by adding "or" at the end of subparagraph (E), and

(3) by inserting after subparagraph (E) the following new subparagraph:

"(F) as an election official or election worker if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than $1,000;".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to service performed after the date of the enactment of this Act.

SEC. 9406. TREATMENT OF CERTAIN SERVICES PERFORMED BY INMATES.

(a) IN GENERAL.—Subsection (c) of section 3306 of the Internal Revenue Code of 1986 (defining employment) is amended—

(1) by striking "or" at the end of paragraph (19),

(2) by striking the period at the end of paragraph (20) and inserting "; or", and

(3) by adding at the end the following new paragraph:

"(21) service performed by a person committed to a penal institution."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to service performed after March 26, 1996.

SEC. 9407. EXEMPTION OF SERVICE PERFORMED FOR AN ELEMENTARY OR SECONDARY SCHOOL OPERATED PRIMARILY FOR RELIGIOUS PURPOSES FROM THE FEDERAL UNEMPLOYMENT TAX.

(a) IN GENERAL.—Paragraph (1) of section 3309(b) of the Internal Revenue Code of 1986 (relating to exemption for certain services) is amended—

(1) by striking "or" at the end of subparagraph (A), and

(2) by inserting before the semicolon at the end the following: ", or (C) an elementary or secondary school which is operated primarily for religious purposes, which is described in section 501(c)(3), and which is exempt from tax under section 501(a)".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to service performed after the date of the enactment of this Act.

SEC. 9408. STATE PROGRAM INTEGRITY ACTIVITIES FOR UNEMPLOYMENT COMPENSATION.

Section 901(c) of the Social Security Act (42 U.S.C. 1101(c)) is amended by adding at the end the following new paragraph:

"(5)(A) There are authorized to be appropriated out of the employment security administration account to carry out program integrity activities, in addition to any amounts available under paragraph (1)(A)(i)—

"(i) $89,000,000 for fiscal year 1998;

"(ii) $91,000,000 for fiscal year 1999;

"(iii) $93,000,000 fiscal year 2000;

"(iv) $96,000,000 for fiscal year 2001; and

"(v) $98,000,000 for fiscal year 2002.

"(B) In any fiscal year in which a State receives funds appropriated pursuant to this paragraph, the State shall expend a proportion of the funds appropriated pursuant to paragraph (1)(A)(i) to carry out program integrity activities that is not less than the proportion of the funds appropriated under such paragraph that was expended by the State to carry out program integrity activities in fiscal year 1997.

"(C) For purposes of this paragraph, the term 'program integrity activities' means initial claims review activities, eligibility review activities, benefit payments control activities, and employer liability auditing activities.".

Subtitle F—Increase in Public Debt Limit

SEC. 9501. INCREASE IN PUBLIC DEBT LIMIT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking the dollar amount contained therein and inserting "$5,950,000,000,000".

TITLE X—COMMITTEE ON WAYS AND MEANS—MEDICARE

SEC. 10000. AMENDMENTS TO SOCIAL SECURITY ACT AND REFERENCES TO OBRA; TABLE OF CONTENTS OF TITLE.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) REFERENCES TO OBRA.—In this title, the terms "OBRA-1986", "OBRA-1987", "OBRA-1989", "OBRA-1990", and "OBRA-1993" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99-509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66), respectively.

(c) TABLE OF CONTENTS OF TITLE.—The table of contents of this title is as follows:

Sec. 10000. Amendments to Social Security Act and references to OBRA; table of contents of title.

Subtitle A—MedicarePlus Program

CHAPTER 1—MEDICAREPLUS PROGRAM

SUBCHAPTER A—MEDICAREPLUS PROGRAM

Sec. 10001. Establishment of MedicarePlus program.

"PART C—MEDICAREPLUS PROGRAM

"Sec. 1851. Eligibility, election, and enrollment.

"Sec. 1852. Benefits and beneficiary protections.

"Sec. 1853. Payments to MedicarePlus organizations.

"Sec. 1854. Premiums.

"Sec. 1855. Organizational and financial requirements for MedicarePlus organizations; provider-sponsored organizations.

"Sec. 1856. Establishment of standards.

"Sec. 1857. Contracts with MedicarePlus organizations.

"Sec. 1859. Definitions; miscellaneous provisions.

Sec. 10002. Transitional rules for current medicare HMO program.

Sec. 10003. Conforming changes in medigap program.

SUBCHAPTER B—SPECIAL RULES FOR MEDICAREPLUS MEDICAL SAVINGS ACCOUNTS

Sec. 10006. MedicarePlus MSA.

CHAPTER 2—INTEGRATED LONG-TERM CARE PROGRAMS

SUBCHAPTER A—PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

Sec. 10011. Coverage of PACE under the medicare program.

Sec. 10012. Establishment of PACE program as medicaid State option.

Sec. 10013. Effective date; transition.

Sec. 10014. Study and reports.

SUBCHAPTER B—SOCIAL HEALTH MAINTENANCE ORGANIZATIONS

Sec. 10015. Social health maintenance organizations (SHMOs).

SUBCHAPTER C—OTHER PROGRAMS

Sec. 10018. Orderly transition of municipal health service demonstration projects.

Sec. 10019. Extension of certain medicare community nursing organization demonstration projects.

CHAPTER 3—MEDICARE PAYMENT ADVISORY COMMISSION

Sec. 10021. Medicare Payment Advisory Commission.

CHAPTER 4—MEDIGAP PROTECTIONS

Sec. 10031. Medigap protections.

Sec. 10032. Medicare prepaid competitive pricing demonstration project.

CHAPTER 5—TAX TREATMENT OF HOSPITALS PARTICIPATING IN PROVIDER-SPONSORED ORGANIZATIONS

Sec. 10041. Tax treatment of hospitals which participate in provider-sponsored organizations.

Subtitle B—Prevention Initiatives

Sec. 10101. Screening mammography.

Sec. 10102. Screening pap smear and pelvic exams.

Sec. 10103. Prostate cancer screening tests.

Sec. 10104. Coverage of colorectal screening.

Sec. 10105. Diabetes screening tests.

Sec. 10106. Standardization of medicare coverage of bone mass measurements.

Sec. 10107. Vaccines outreach expansion.

Sec. 10108. Study on preventive benefits.

Subtitle C—Rural Initiatives

Sec. 10201. Rural primary care hospital program.

Sec. 10202. Prohibiting denial of request by rural referral centers for reclassification on basis of comparability of wages.
Sec. 10203. Hospital geographic reclassification permitted for purposes of disproportionate share payment adjustments.
Sec. 10204. Medicare-dependent, small rural hospital payment extension.
Sec. 10205. Geographic reclassification for certain disproportionately large hospitals.
Sec. 10206. Floor on area wage index.
Sec. 10207. Informatics, telemedicine, and education demonstration project.

Subtitle D—Anti-Fraud and Abuse Provisions

Sec. 10301. Permanent exclusion for those convicted of 3 health care related crimes.
Sec. 10302. Authority to refuse to enter into medicare agreements with individuals or entities convicted of felonies.
Sec. 10303. Inclusion of toll-free number to report medicare waste, fraud, and abuse in explanation of benefits forms.
Sec. 10304. Liability of medicare carriers and fiscal intermediaries for claims submitted by excluded providers.
Sec. 10305. Exclusion of entity controlled by family member of a sanctioned individual.
Sec. 10306. Imposition of civil money penalties.
Sec. 10307. Disclosure of information and surety bonds.
Sec. 10308. Provision of certain identification numbers.
Sec. 10309. Advisory opinions regarding certain physician self-referral provisions.
Sec. 10310. Other fraud and abuse related provisions.

Subtitle E—Prospective Payment Systems

CHAPTER 1—PAYMENT UNDER PART A

Sec. 10401. Prospective payment for skilled nursing facility services.
Sec. 10402. Prospective payment for inpatient rehabilitation hospital services.

CHAPTER 2—PAYMENT UNDER PART B

SUBCHAPTER A—PAYMENT FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES

Sec. 10411. Elimination of formula-driven overpayments (FDO) for certain outpatient hospital services.
Sec. 10412. Extension of reductions in payments for costs of hospital outpatient services.
Sec. 10413. Prospective payment system for hospital outpatient department services.

SUBCHAPTER B—REHABILITATION SERVICES

Sec. 10421. Rehabilitation agencies and services.
Sec. 10422. Comprehensive outpatient rehabilitation facilities (corf).

SUBCHAPTER C—AMBULANCE SERVICES

Sec. 10431. Payments for ambulance services.
Sec. 10432. Demonstration of coverage of ambulance services under medicare through contracts with units of local government.

CHAPTER 3—PAYMENT UNDER PARTS A AND B

Sec. 10441. Prospective payment for home health services.

Subtitle F—Provisions Relating to Part A

CHAPTER 1—PAYMENT OF PPS HOSPITALS

Sec. 10501. PPS hospital payment update.
Sec. 10502. Capital payments for PPS hospitals.
Sec. 10503. Freeze in disproportionate share.
Sec. 10504. Medicare capital asset sales price equal to book value.
Sec. 10505. Elimination of IME and DSH payments attributable to outlier payments.
Sec. 10506. Reduction in adjustment for indirect medical education.
Sec. 10507. Treatment of transfer cases.
Sec. 10508. Increase base payment rate to Puerto Rico hospitals.

CHAPTER 2—PAYMENT OF PPS EXEMPT HOSPITALS

Sec. 10511. Payment update.
Sec. 10512. Reductions to capital payments for certain PPS-exempt hospitals and units.
Sec. 10513. Cap on TEFRA limits.
Sec. 10514. Change in bonus and relief payments.
Sec. 10515. Change in payment and target amount for new providers.
Sec. 10516. Rebasing.
Sec. 10517. Treatment of certain long-term care hospitals.
Sec. 10518. Elimination of exemptions; report on exceptions and adjustments.

CHAPTER 3—PROVISIONS RELATED TO HOSPICE SERVICES

Sec. 10521. Payments for hospice services.
Sec. 10522. Payment for home hospice care based on location where care is furnished.
Sec. 10523. Hospice care benefits periods.
Sec. 10524. Other items and services included in hospice care.
Sec. 10525. Contracting with independent physicians or physician groups for hospice care services permitted.
Sec. 10526. Waiver of certain staffing requirements for hospice care programs in non-urbanized areas.
Sec. 10527. Limitation on liability of beneficiaries for certain hospice coverage denials.
Sec. 10528. Extending the period for physician certification of an individual's terminal illness.
Sec. 10529. Effective date.

CHAPTER 4—MODIFICATION OF PART A HOME HEALTH BENEFIT

Sec. 10531. Modification of part A home health benefit for individuals enrolled under part B.

CHAPTER 5—OTHER PAYMENT PROVISIONS

Sec. 10541. Reductions in payments for enrollee bad debt.
Sec. 10542. Permanent extension of hemophilia pass-through.
Sec. 10543. Reduction in part A medicare premium for certain public retirees.

Subtitle G—Provisions Relating to Part B Only

CHAPTER 1—PHYSICIANS' SERVICES

Sec. 10601. Establishment of single conversion factor for 1998.
Sec. 10602. Establishing update to conversion factor to match spending under sustainable growth rate.
Sec. 10603. Replacement of volume performance standard with sustainable growth rate.
Sec. 10604. Payment rules for anesthesia services.
Sec. 10605. Implementation of resource-based physician practice expense.
Sec. 10606. Dissemination of information on high per discharge relative values for in-hospital physicians' services.
Sec. 10607. No X-ray required for chiropractic services.
Sec. 10608. Temporary coverage restoration for portable electrocardiogram transportation.

CHAPTER 2—OTHER PAYMENT PROVISIONS

Sec. 10611. Payments for durable medical equipment.
Sec. 10612. Oxygen and oxygen equipment.
Sec. 10613. Reduction in updates to payment amounts for clinical diagnostic laboratory tests.
Sec. 10614. Simplification in administration of laboratory tests.
Sec. 10615. Updates for ambulatory surgical services.
Sec. 10616. Reimbursement for drugs and biologicals.
Sec. 10617. Coverage of oral anti-nausea drugs under chemotherapeutic regimen.
Sec. 10618. Rural health clinic services.
Sec. 10619. Increased medicare reimbursement for nurse practitioners and clinical nurse specialists.
Sec. 10620. Increased medicare reimbursement for physician assistants.
Sec. 10621. Renal dialysis-related services.

CHAPTER 3—PART B PREMIUM

Sec. 10631. Part B premium.

Subtitle H—Provisions Relating to Parts A and B

CHAPTER 1—PROVISIONS RELATING TO MEDICARE SECONDARY PAYER

Sec. 10701. Permanent extension and revision of certain secondary payer provisions.
Sec. 10702. Clarification of time and filing limitations.
Sec. 10703. Permitting recovery against third party administrators.

CHAPTER 2—HOME HEALTH SERVICES

Sec. 10711. Recapturing savings resulting from temporary freeze on payment increases for home health services.
Sec. 10712. Interim payments for home health services.
Sec. 10713. Clarification of part-time or intermittent nursing care.
Sec. 10714. Study of definition of homebound.
Sec. 10715. Payment based on location where home health service is furnished.
Sec. 10716. Normative standards for home health claims denials,
Sec. 10717. No home health benefits based solely on drawing blood.

CHAPTER 3—BABY BOOM GENERATION MEDICARE COMMISSION

Sec. 10721. Bipartisan Commission on the Effect of the Baby Boom Generation on the Medicare Program.

CHAPTER 4—PROVISIONS RELATING TO DIRECT GRADUATE MEDICAL EDUCATION

Sec. 10731. Limitation on payment based on number of residents and implementation of rolling average FTE count.
Sec. 10732. Phased-in limitation on hospital overhead and supervisory physician component of direct medical education costs.

Sec. 10733. Permitting payment to non-hospital providers.
Sec. 10734. Incentive payments under plans for voluntary reduction in number of residents.
Sec. 10735. Demonstration project on use of consortia.
Sec. 10736. Recommendations on long-term payment policies regarding financing teaching hospitals and graduate medical education.
Sec. 10737. Medicare special reimbursement rule for certain combined residency programs.

CHAPTER 5—OTHER PROVISIONS

Sec. 10741. Centers of excellence.
Sec. 10742. Medicare part B special enrollment period and waiver of part B late enrollment penalty and medigap special open enrollment period for certain military retirees and dependents.
Sec. 10743. Protections under the medicare program for disabled workers who lose benefits under a group health plan.
Sec. 10744. Placement of advance directive in medical record.

Subtitle I—Medical Liability Reform

CHAPTER 1—GENERAL PROVISIONS

Sec. 10801. Federal reform of health care liability actions.
Sec. 10802. Definitions.
Sec. 10803. Effective date.

CHAPTER 2—UNIFORM STANDARDS FOR HEALTH CARE LIABILITY ACTIONS

Sec. 10811. Statute of limitations.
Sec. 10812. Calculation and payment of damages.
Sec. 10813. Alternative dispute resolution.

Subtitle A—MedicarePlus Program

CHAPTER 1—MEDICAREPLUS PROGRAM

Subchapter A—MedicarePlus Program

SEC. 10001. ESTABLISHMENT OF MEDICAREPLUS PROGRAM.

(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—MEDICAREPLUS PROGRAM

"ELIGIBILITY, ELECTION, AND ENROLLMENT

"SEC. 1851. (a) CHOICE OF MEDICARE BENEFITS THROUGH MEDICAREPLUS PLANS.—

"(1) IN GENERAL.—Subject to the provisions of this section, each MedicarePlus eligible individual (as defined in paragraph (3)) is entitled to elect to receive benefits under this title—

"(A) through the medicare fee-for-service program under parts A and B, or

"(B) through enrollment in a MedicarePlus plan under this part.

"(2) TYPES OF MEDICAREPLUS PLANS THAT MAY BE AVAILABLE.—A MedicarePlus plan may be any of the following types of plans of health insurance:

"(A) COORDINATED CARE PLANS.—Coordinated care plans which provide health care services, including health maintenance organization plans and preferred provider organization plans.

"(B) PLANS OFFERED BY PROVIDER-SPONSORED ORGANIZATION.—A MedicarePlus plan offered by a provider-sponsored organization, as defined in section 1855(e).

"(C) COMBINATION OF MSA PLAN AND CONTRIBUTIONS TO MEDICAREPLUS MSA.—An MSA plan, as defined in section 1859(b)(2), and a contribution into a MedicarePlus medical savings account (MSA).

"(3) MEDICAREPLUS ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—In this title, subject to subparagraph (B), the term 'MedicarePlus eligible individual' means an individual who is entitled to benefits under part A and enrolled under part B.

"(B) SPECIAL RULE FOR END-STAGE RENAL DISEASE.—Such term shall not include an individual medically determined to have end-stage renal disease, except that an individual who develops end-stage renal disease while enrolled in a MedicarePlus plan may continue to be enrolled in that plan.

"(b) SPECIAL RULES.—

"(1) RESIDENCE REQUIREMENT.—

"(A) IN GENERAL.—Except as the Secretary may otherwise provide, an individual is eligible to elect a MedicarePlus plan offered by a MedicarePlus organization only if the organization serves the geographic area in which the individual resides.

"(B) CONTINUATION OF ENROLLMENT PERMITTED.—Pursuant to rules specified by the Secretary, the Secretary shall provide that an individual may continue enrollment in a plan, notwithstanding that the individual no longer resides in the service area of the plan, so long as the plan provides benefits for enrollees located in the area in which the individual resides.

"(2) SPECIAL RULE FOR CERTAIN INDIVIDUALS COVERED UNDER FEHBP OR ELIGIBLE FOR VETERANS OR MILITARY HEALTH BENEFITS, VETERANS .—

"(A) FEHBP.—An individual who is enrolled in a health benefit plan under chapter 89 of title 5, United States Code, is not eligible to enroll in an MSA plan until such time as the Director of the Office of Management and Budget certifies to the Secretary that the Office of Personnel Management has adopted policies which will ensure that the enrollment of such individuals in such plans will not result in increased expenditures for the Federal Government for health benefit plans under such chapter.

"(B) VA AND DOD.—The Secretary may apply rules similar to the rules described in subparagraph (A) in the case of individuals who are eligible for health care benefits under chapter 55 of title 10, United States Code, or under chapter 17 of title 38 of such Code.

"(3) LIMITATION ON ELIGIBILITY OF QUALIFIED MEDICARE BENEFICIARIES AND OTHER MEDICAID BENEFICIARIES TO ENROLL IN AN MSA PLAN.—An individual who is a qualified medicare beneficiary (as defined in section 1905(p)(1)), a qualified disabled and working individual (described in section 1905(s)), an individual described in section 1902(a)(10)(E)(iii), or otherwise entitled to medicare cost-sharing under a State plan under title XIX is not eligible to enroll in an MSA plan.

"(4) COVERAGE UNDER MSA PLANS ON A DEMONSTRATION BASIS.—

"(A) IN GENERAL.—An individual is not eligible to enroll in an MSA plan under this part—

"(i) on or after January 1, 2003, unless the enrollment is the continuation of such an enrollment in effect as of such date; or

"(ii) as of any date if the number of such individuals so enrolled as of such date has reached 500,000.

Under rules established by the Secretary, an individual is not eligible to enroll (or continue enrollment) in an MSA plan for a year unless the individual provides assurances satisfactory to the Secretary that the individual will reside in the United States for at least 183 days during the year.

"(B) EVALUATION.—The Secretary shall regularly evaluate the impact of permitting enrollment in MSA plans under this part on selection (including adverse selection), use of preventive care, access to care, and the financial status of the Trust Funds under this title.

"(C) REPORTS.—The Secretary shall submit to Congress periodic reports on the numbers of individuals enrolled in such plans and on the evaluation being conducted under subparagraph (B). The Secretary shall submit such a report, by not later than March 1, 2002, on whether the time limitation under subparagraph (A)(i) should be extended or removed and whether to change the numerical limitation under subparagraph (A)(ii).

"(c) 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 only during coverage election periods specified under subsection (e) and shall become effective as provided in subsection (f).

"(2) COORDINATION THROUGH MEDICAREPLUS ORGANIZATIONS.—

"(A) ENROLLMENT.—Such process shall permit an individual who wishes to elect a MedicarePlus plan offered by a MedicarePlus organization to make such election through the filing of an appropriate election form with the organization.

"(B) DISENROLLMENT.—Such process shall permit an individual, who has elected a MedicarePlus plan offered by a MedicarePlus organization and who wishes to terminate such election, to terminate such election through the filing of an appropriate election form with the organization.

"(3) DEFAULT.—

"(A) INITIAL ELECTION.—

"(i) IN GENERAL.—Subject to clause (ii), an individual who fails to make an election during an initial election period under subsection (e)(1) is deemed to have chosen the medicare fee-for-service program option.

"(ii) SEAMLESS CONTINUATION OF COVERAGE.—The Secretary may establish procedures under which an individual who is enrolled in a health plan (other than MedicarePlus plan) offered by a MedicarePlus organization at the time of the initial election period and who fails to elect to receive coverage other than through the organization is deemed to have elected the MedicarePlus plan offered by the organization (or, if the organization offers more than one such plan, such plan or plans as the Secretary identifies under such procedures).

"(B) CONTINUING PERIODS.—An individual who has made (or is 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) a MedicarePlus plan is discontinued, if the individual had elected such plan at the time of the discontinuation.

"(d) PROVIDING INFORMATION TO PROMOTE INFORMED CHOICE.—

"(1) IN GENERAL.—The Secretary shall provide for activities under this subsection to broadly disseminate information to medicare beneficiaries (and prospective medicare beneficiaries) on the coverage options provided under this section in order to promote an active, informed selection among such options.

"(2) PROVISION OF NOTICE.—

"(A) OPEN SEASON NOTIFICATION.—At least 30 days before the beginning of each annual, coordinated election period (as defined in subsection (e)(3)(B)), the Secretary shall mail to each MedicarePlus eligible individual residing in an area the following:

"(i) GENERAL INFORMATION.—The general information described in paragraph (3).

"(ii) LIST OF PLANS AND COMPARISON OF PLAN OPTIONS.—A list identifying the MedicarePlus plans that are (or will be) available to residents of the area and information described in paragraph (4) concerning such plans. Such information shall be presented in a comparative form.

"(iii) MEDICAREPLUS MONTHLY CAPITATION RATE.—The amount of the monthly MedicarePlus capitation rate for the area.

"(iv) ADDITIONAL INFORMATION.—Any other information that the Secretary determines will assist the individual in making the election under this section.

The mailing of such information shall be coordinated with the mailing of any annual notice under section 1804.

"(B) NOTIFICATION TO NEWLY MEDICAREPLUS ELIGIBLE INDIVIDUALS.—To the extent practicable, the Secretary shall, not later than 2 months before the beginning of the initial MedicarePlus enrollment period for an individual described in subsection (e)(1), mail to the individual the information described in subparagraph (A).

"(C) FORM.—The information disseminated under this paragraph shall be written and formatted using language that is easily understandable by medicare beneficiaries.

"(D) PERIODIC UPDATING.—The information described in subparagraph (A) shall be updated on at least an annual basis to reflect changes in the availability of MedicarePlus plans and the benefits and monthly premiums (and net monthly premiums) for such plans.

"(3) GENERAL INFORMATION.—General information under this paragraph, with respect to coverage under this part during a year, shall include the following:

"(A) BENEFITS UNDER FEE-FOR-SERVICE PROGRAM OPTION.—A general description of the benefits covered (and not covered) under the medicare fee-for-service program under parts A and B, including—

"(i) covered items and services,

"(ii) beneficiary cost sharing, such as deductibles, coinsurance, and copayment amounts, and

"(iii) any beneficiary liability for balance billing.

"(B) PART B PREMIUM.—The part B premium rates that will be charged for part B coverage.

"(C) ELECTION PROCEDURES.—Information and instructions on how to exercise election options under this section.

"(D) RIGHTS.—The general description of procedural rights (including grievance and appeals procedures) of beneficiaries under the medicare fee-for-service program and the MedicarePlus program and right to be protected against discrimination based on health status-related factors under section 1852(b).

"(E) INFORMATION ON MEDIGAP AND MEDICARE SELECT.—A general description of the benefits, enrollment rights, and other requirements applicable to medicare supplemental policies under section 1882 and provisions relating to medicare select policies described in section 1882(t).

"(F) POTENTIAL FOR CONTRACT TERMINATION.—The fact that a MedicarePlus organization may terminate or refuse to renew its contract under this part and the effect the termination or nonrenewal of its contract may have on individuals enrolled with the MedicarePlus plan under this part.

"(4) INFORMATION COMPARING PLAN OPTIONS.—Information under this paragraph, with respect to a MedicarePlus plan for a year, shall include the following:

"(A) BENEFITS.—The benefits covered (and not covered) under the plan, including—

"(i) covered items and services beyond those provided under the medicare fee-for-service program,

"(ii) any beneficiary cost sharing,

"(iii) any maximum limitations on out-of-pocket expenses, and

"(iv) in the case of an MSA plan, differences in cost sharing and balance billing under such a plan compared to under other MedicarePlus plans.

"(B) PREMIUMS.—The monthly premium (and net monthly premium), if any, for the plan.

"(C) SERVICE AREA.—The service area of the plan.

"(D) QUALITY AND PERFORMANCE.—To the extent available, plan quality and performance indicators for the benefits under the plan (and how they compare to such indicators under the medicare fee-for-service program under parts A and B in the area involved), including—

"(i) disenrollment rates for medicare enrollees electing to receive benefits through the plan for the previous 2 years (excluding disenrollment due to death or moving outside the plan's service area),

"(ii) information on medicare enrollee satisfaction,

"(iii) information on health outcomes, and

"(iv) the recent record regarding compliance of the plan with requirements of this part (as determined by the Secretary).

"(E) SUPPLEMENTAL BENEFITS OPTIONS.—Whether the organization offering the plan offers optional supplemental benefits and the terms and conditions (including premiums) for such coverage.

"(5) MAINTAINING A TOLL-FREE NUMBER AND INTERNET SITE.—The Secretary shall maintain a toll-free number for inquiries regarding MedicarePlus options and the operation of this part in all areas in which MedicarePlus plans are offered and an Internet site through which individuals may electronically obtain information on such options and MedicarePlus plans.

"(6) USE OF NONFEDERAL ENTITIES.—The Secretary may enter into contracts with non-Federal entities to carry out activities under this subsection.

"(7) PROVISION OF INFORMATION.—A MedicarePlus organization shall provide the Secretary with such information on the organization and each MedicarePlus plan it offers as may be required for the preparation of the information referred to in paragraph (2)(A).

"(e) COVERAGE ELECTION PERIODS.—

"(1) INITIAL CHOICE UPON ELIGIBILITY TO MAKE ELECTION IF MEDICAREPLUS PLANS AVAILABLE TO INDIVIDUAL.—If, at the time an individual first becomes entitled to benefits under part A and enrolled under part B, there is one or more MedicarePlus plans offered in the area in which the individual resides, the individual shall make the election under this section during a period (of a duration and beginning at a time specified by the Secretary) at such time. Such period shall be specified in a manner so that, in the case of an individual who elects a MedicarePlus plan during the period, coverage under the plan becomes effective as of the first date on which the individual may receive such coverage.

"(2) OPEN ENROLLMENT AND DISENROLLMENT OPPORTUNITIES.—Subject to paragraph (5)—

"(A) CONTINUOUS OPEN ENROLLMENT AND DISENROLLMENT THROUGH 2000.—At any time during 1998, 1999, and 2000, a MedicarePlus eligible individual may change the election under subsection (a)(1).

"(B) CONTINUOUS OPEN ENROLLMENT AND DISENROLLMENT FOR FIRST 6 MONTHS DURING 2001.—

"(i) IN GENERAL.—Subject to clause (ii), at any time during the first 6 months of 2001, or, if the individual first becomes a MedicarePlus eligible individual during 2001, during the first 6 months during 2001 in which the individual is a MedicarePlus eligible individual, a MedicarePlus eligible individual may change the election under subsection (a)(1).

"(ii) LIMITATION OF ONE CHANGE PER YEAR.—An individual may exercise the right under clause (i) only once during 2001. The limitation under this clause shall not apply to changes in elections effected during an annual, coordinated election period under paragraph (3) or during a special enrollment period under paragraph (4).

"(C) CONTINUOUS OPEN ENROLLMENT AND DISENROLLMENT FOR FIRST 3 MONTHS IN SUBSEQUENT YEARS.—

"(i) IN GENERAL.—Subject to clause (ii), at any time during the first 3 months of a year after 2001, or, if the individual first becomes a MedicarePlus eligible individual during a year after 2001, during the first 3 months of such year in which the individual is a MedicarePlus eligible individual, a MedicarePlus eligible individual may change the election under subsection (a)(1).

"(ii) LIMITATION OF ONE CHANGE PER YEAR.—An individual may exercise the right under clause (i) only once a year. The limitation under this clause shall not apply to changes in elections effected during an annual, coordinated election period under paragraph (3) or during a special enrollment period under paragraph (4).

"(3) ANNUAL, COORDINATED ELECTION PERIOD.—

"(A) IN GENERAL.—Subject to paragraph (5), each individual who is eligible to make an election under this section may change such election during an annual, coordinated election period.

"(B) ANNUAL, COORDINATED ELECTION PERIOD.—For purposes of this section, the term 'annual, coordinated election period' means, with respect to a calendar year (beginning with 2001), the month of October before such year.

"(C) MEDICAREPLUS HEALTH FAIRS.—In the month of October of each year (beginning with 1998), the Secretary shall provide for a nationally coordinated educational and publicity campaign to inform MedicarePlus eligible individuals about MedicarePlus plans and the election process provided under this section.

"(4) SPECIAL ELECTION PERIODS.—Effective as of January 1, 2001, an individual may discontinue an election of a MedicarePlus plan offered by a MedicarePlus organization other than during an annual, coordinated election period and make a new election under this section if—

"(A) the organization's or plan's certification under this part has been terminated or the organization has terminated or otherwise discontinued providing the plan;

"(B) the individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances (specified by the Secretary, but not including termination of the individual's enrollment on the basis described in clause (i) or (ii) of subsection (g)(3)(B));

"(C) the individual demonstrates (in accordance with guidelines established by the Secretary) that—

"(i) the organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual (including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards); or

"(ii) the organization (or an agent or other entity acting on the organization's behalf) materially misrepresented the plan's provisions in marketing the plan to the individual; or

"(D) the individual meets such other exceptional conditions as the Secretary may provide.

"(5) SPECIAL RULES FOR MSA PLANS.—Notwithstanding the preceding provisions of this subsection, an individual—

"(A) may elect an MSA plan only during—

"(i) an initial open enrollment period described in paragraph (1),

"(ii) an annual, coordinated election period described in paragraph (3)(B), or

"(iii) the months of October 1998 and October 1999; and

"(B) may not discontinue an election of an MSA plan except during the periods described in clause (ii) or (iii) of subparagraph (A) and under paragraph (4).

"(f) EFFECTIVENESS OF ELECTIONS AND CHANGES OF ELECTIONS.—

"(1) DURING INITIAL COVERAGE ELECTION PERIOD.—An election of coverage made during the initial coverage election period under subsection (e)(1) shall take effect upon the date the individual becomes entitled to benefits under part A and enrolled under part B, except as the Secretary may provide (consistent with section 1838) in order to prevent retroactive coverage.

"(2) DURING CONTINUOUS OPEN ENROLLMENT PERIODS.—An election or change of coverage made under subsection (e)(2) shall take effect with the first day of the first calendar month following the date on which the election is made.

"(3) ANNUAL, COORDINATED ELECTION PERIOD.—An election or change of coverage made during an annual, coordinated election period (as defined in subsection (e)(3)(B)) in a year shall take effect as of the first day of the following year.

"(4) OTHER PERIODS.—An election or change of coverage made during any other period under subsection (e)(4) shall take effect in such manner as the Secretary provides in a manner consistent (to the extent practicable) with protecting continuity of health benefit coverage.

"(g) GUARANTEED ISSUE AND RENEWAL.—

"(1) IN GENERAL.—Except as provided in this subsection, a MedicarePlus organization shall provide that at any time during which elections are accepted under this section with respect to a MedicarePlus plan offered by the organization, the organization will accept without restrictions individuals who are eligible to make such election.

"(2) PRIORITY.—If the Secretary determines that a MedicarePlus organization, in relation to a MedicarePlus plan it offers, has a capacity limit and the number of MedicarePlus eligible individuals who elect the plan under this section exceeds the capacity limit, the organization may limit the election of individuals of the plan under this section but only if priority in election is provided—

"(A) first to such individuals as have elected the plan at the time of the determination, and

"(B) then to other such individuals in such a manner that does not discriminate, on a basis described in section 1852(b), among the individuals (who seek to elect the plan).

The preceding sentence shall not apply if it would result in the enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the medicare population in the service area of the plan.

"(3) LIMITATION ON TERMINATION OF ELECTION.—

"(A) IN GENERAL.—Subject to subparagraph (B), a MedicarePlus organization may not for any reason terminate the election of any individual under this section for a MedicarePlus plan it offers.

"(B) BASIS FOR TERMINATION OF ELECTION.—A MedicarePlus organization may terminate an individual's election under this section with respect to a MedicarePlus plan it offers if—

"(i) any net monthly premiums required with respect to such plan are not paid on a timely basis (consistent with standards under section 1856 that provide for a grace period for late payment of net monthly premiums),

"(ii) the individual has engaged in disruptive behavior (as specified in such standards), or

"(iii) the plan is terminated with respect to all individuals under this part in the area in which the individual resides.

"(C) CONSEQUENCE OF TERMINATION.—

"(i) TERMINATIONS FOR CAUSE.—Any individual whose election is terminated under clause (i) or (ii) of subparagraph (B) is deemed to have elected the medicare fee-for-service program option described in subsection (a)(1)(A).

"(ii) TERMINATION BASED ON PLAN TERMINATION OR SERVICE AREA REDUCTION.—Any individual whose election is terminated under subparagraph (B)(iii) shall have a special election period under subsection (e)(4)(A) in which to change coverage to coverage under another MedicarePlus plan. Such an individual who fails to make an election during such period is deemed to have chosen to change coverage to the medicare fee-for-service program option described in subsection (a)(1)(A).

"(D) ORGANIZATION OBLIGATION WITH RESPECT TO ELECTION FORMS.—Pursuant to a contract under section 1857, each MedicarePlus organization receiving an election form under subsection (c)(2) shall transmit to the Secretary (at such time and in such manner as the Secretary may specify) a copy of such form or such other information respecting the election as the Secretary may specify.

"(h) APPROVAL OF MARKETING MATERIAL AND APPLICATION FORMS.—

"(1) SUBMISSION.—No marketing material or application form may be distributed by a MedicarePlus organization to (or for the use of) MedicarePlus eligible individuals unless—

"(A) at least 45 days before the date of distribution the organization has submitted the material or form to the Secretary for review, and

"(B) the Secretary has not disapproved the distribution of such material or form.

"(2) REVIEW.—The standards established under section 1856 shall include guidelines for the review of all such material or form submitted and under such guidelines the Secretary shall disapprove (or later require the correction of) such material or form if the material or form is materially inaccurate or misleading or otherwise makes a material misrepresentation.

"(3) DEEMED APPROVAL (1-STOP SHOPPING).—In the case of material or form that is submitted under paragraph (1)(A) to the Secretary or a regional office of the Department of Health and Human Services and the Secretary or the office has not disapproved the distribution of marketing material or form under paragraph (1)(B) with respect to a MedicarePlus plan in an area, the Secretary is deemed not to have disapproved such distribution in all other areas covered by the plan and organization except to the extent that such material or form is specific only to an area involved.

"(4) PROHIBITION OF CERTAIN MARKETING PRACTICES.—Each MedicarePlus organization shall conform to fair marketing standards, in relation to MedicarePlus plans offered under this part, included in the standards established under section 1856. Such standards shall include a prohibition against a MedicarePlus organization (or agent of such an organization) completing any portion of any election form used to carry out elections under this section on behalf of any individual.

"(i) EFFECT OF ELECTION OF MEDICAREPLUS PLAN OPTION.—Subject to sections 1852(a)(5), 1857(f)(2), and 1857(g)—

"(1) payments under a contract with a MedicarePlus organization under section 1853(a) with respect to an individual electing a MedicarePlus plan offered by the organization shall be instead of the amounts which (in the absence of the contract) would otherwise be payable under parts A and B for items and services furnished to the individual, and

"(2) subject to subsections (e) and (f) of section 1853, only the MedicarePlus organization shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.

"BENEFITS AND BENEFICIARY PROTECTIONS

"SEC. 1852. (a) BASIC BENEFITS.—

"(1) IN GENERAL.—Except as provided in section 1859(b)(2) for MSA plans, each MedicarePlus plan shall 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—

"(A) those items and services for which benefits are available under parts A and B to individuals residing in the area served by the plan, and

"(B) additional benefits required under section 1854(f)(1)(A).

"(2) SATISFACTION OF REQUIREMENT.—A MedicarePlus plan (other than an MSA plan) offered by a MedicarePlus organization satisfies paragraph (1)(A), with respect to benefits for items and services furnished other than through a provider that has a contract with the organization offering the plan, if the plan provides (in addition to any cost sharing provided for under the plan) for at least the total dollar amount of payment for such items and services as would otherwise be authorized under parts A and B (including any balance billing permitted under such parts).

"(3) SUPPLEMENTAL BENEFITS.—

"(A) BENEFITS INCLUDED SUBJECT TO SECRETARY'S APPROVAL.—Each MedicarePlus organization may provide to individuals enrolled under this part, other than under an MSA plan, (without affording those individuals an option to decline the coverage) supplemental health care benefits that the Secretary may approve. The Secretary shall approve any such supplemental benefits unless the Secretary determines that including such supplemental benefits would substantially discourage enrollment by

MedicarePlus eligible individuals with the organization.

"(B) AT ENROLLEES' OPTION.—A MedicarePlus organization may provide to individuals enrolled under this part, other than under an MSA plan, supplemental health care benefits that the individuals may elect, at their option, to have covered.

"(4) ORGANIZATION AS SECONDARY PAYER.—Notwithstanding any other provision of law, a MedicarePlus organization may (in the case of the provision of items and services to an individual under a MedicarePlus plan under circumstances in which payment under this title is made secondary pursuant to section 1862(b)(2)) charge or authorize the provider of such services to charge, in accordance with the charges allowed under such a law, plan, or policy—

"(A) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

"(B) such individual to the extent that the individual has been paid under such law, plan, or policy for such services.

"(5) NATIONAL COVERAGE DETERMINATIONS.—If there is a national coverage determination made in the period beginning on the date of an announcement under section 1853(b) and ending on the date of the next announcement under such section and the Secretary projects that the determination will result in a significant change in the costs to a MedicarePlus organization of providing the benefits that are the subject of such national coverage determination and that such change in costs was not incorporated in the determination of the annual MedicarePlus capitation rate under section 1853 included in the announcement made at the beginning of such period—

"(A) such determination shall not apply to 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 coverage under additional circumstances, section 1851(i) 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) ANTIDISCRIMINATION.—

"(1) IN GENERAL.—A MedicarePlus organization may not deny, limit, or condition the coverage or provision of benefits under this part, for individuals permitted to be enrolled with the organization under this part, based on any health status-related factor described in section 2702(a)(1) of the Public Health Service Act.

"(2) CONSTRUCTION.—Paragraph (1) shall not be construed as requiring a MedicarePlus organization to enroll individuals who are determined to have end-stage renal disease, except as provided under section 1851(a)(3)(B).

"(c) DETAILED DESCRIPTION OF PLAN PROVISIONS.—A MedicarePlus organization shall disclose, in clear, accurate, and standardized form to each enrollee with a MedicarePlus plan offered by the organization under this part at the time of enrollment and at least annually thereafter, the following information regarding such plan:

"(1) SERVICE AREA.—The plan's service area.

"(2) BENEFITS.—Benefits offered (and not offered) under the plan offered, including information described in section 1851(d)(3)(A) and exclusions from coverage and, if it is an MSA plan, a comparison of benefits under such a plan with benefits under other MedicarePlus plans.

"(3) ACCESS.—The number, mix, and distribution of plan providers.

"(4) OUT-OF-AREA COVERAGE.—Out-of-area coverage provided by the plan.

"(5) EMERGENCY COVERAGE.—Coverage of emergency services and urgently needed care, including—

"(A) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

"(B) the process and procedures of the plan for obtaining emergency services; and

"(C) the locations of (i) emergency departments, and (ii) other settings, in which plan physicians and hospitals provide emergency services and post-stabilization care.

"(6) SUPPLEMENTAL BENEFITS.—Supplemental benefits available from the organization offering the plan, including—

"(A) whether the supplemental benefits are optional,

"(B) the supplemental benefits covered, and

"(C) the premium price for the supplemental benefits.

"(7) PRIOR AUTHORIZATION RULES.—Rules regarding prior authorization or other review requirements that could result in nonpayment.

"(8) PLAN GRIEVANCE AND APPEALS PROCEDURES.—Any appeal or grievance rights and procedures.

"(9) QUALITY ASSURANCE PROGRAM.—A description of the organization's quality assurance program under subsection (e).

"(d) ACCESS TO SERVICES.—

"(1) IN GENERAL.—A MedicarePlus organization offering a MedicarePlus plan may select the providers from whom the benefits under the plan are provided so long as—

"(A) the organization makes such benefits available and accessible to each individual electing the plan within the plan service area with reasonable promptness and in a manner which assures continuity in the provision of benefits;

"(B) when medically necessary the organization makes such benefits available and accessible 24 hours a day and 7 days a week;

"(C) the plan provides for reimbursement with respect to services which are covered under subparagraphs (A) and (B) and which are provided to such an individual other than through the organization, if—

"(i) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition, and it was not reasonable given the circumstances to obtain the services through the organization,

"(ii) the services were renal dialysis services and were provided other than through the organization because the individual was temporarily out of the plan's service area, or

"(iii) the services are maintenance care or post-stabilization care covered under the guidelines established under paragraph (2);

"(D) the organization provides access to appropriate providers, including credentialed specialists, for medically necessary treatment and services; and

"(E) coverage is provided for emergency services (as defined in paragraph (3)) without regard to prior authorization or the emergency care provider's contractual relationship with the organization.

"(2) GUIDELINES RESPECTING COORDINATION OF POST-STABILIZATION CARE.—A MedicarePlus plan shall comply with such guidelines as the Secretary may prescribe relating to promoting efficient and timely coordination of appropriate maintenance and post-stabilization care of an enrollee after the enrollee has been determined to be stable under section 1867.

"(3) DEFINITION OF EMERGENCY SERVICES.—In this subsection—

"(A) IN GENERAL.—The term 'emergency services' means, with respect to an individual enrolled with an organization, covered inpatient and outpatient services that—

"(i) are furnished by a provider that is qualified to furnish such services under this title, and

"(ii) are needed to evaluate or stabilize an emergency medical condition (as defined in subparagraph (B)).

"(B) EMERGENCY MEDICAL CONDITION BASED ON PRUDENT LAYPERSON.—The term 'emergency medical condition' means a medical condition manifesting itself by acute symptoms of sufficient severity such 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—

"(i) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

"(ii) serious impairment to bodily functions, or

"(iii) serious dysfunction of any bodily organ or part.

"(e) QUALITY ASSURANCE PROGRAM.—

"(1) IN GENERAL.—Each MedicarePlus organization must have arrangements, consistent with any regulation, for an ongoing quality assurance program for health care services it provides to individuals enrolled with MedicarePlus plans of the organization.

"(2) ELEMENTS OF PROGRAM.—The quality assurance program shall—

"(A) stress health outcomes and provide for the collection, analysis, and reporting of data (in accordance with a quality measurement system that the Secretary recognizes) that will permit measurement of outcomes and other indices of the quality of MedicarePlus plans and organizations;

"(B) provide for the establishment of written protocols for utilization review, based on current standards of medical practice;

"(C) provide review by physicians and other health care professionals of the process followed in the provision of such health care services;

"(D) monitor and evaluate high volume and high risk services and the care of acute and chronic conditions;

"(E) evaluate the continuity and coordination of care that enrollees receive;

"(F) have mechanisms to detect both underutilization and overutilization of services;

"(G) after identifying areas for improvement, establish or alter practice parameters;

"(H) take action to improve quality and assesses the effectiveness of such action through systematic followup;

"(I) make available information on quality and outcomes measures to facilitate beneficiary comparison and choice of health coverage options (in such form and on such quality and outcomes measures as the Secretary determines to be appropriate);

"(J) be evaluated on an ongoing basis as to its effectiveness;

"(K) include measures of consumer satisfaction; and

"(L) provide the Secretary with such access to information collected as may be appropriate to monitor and ensure the quality of care provided under this part.

"(3) EXTERNAL REVIEW.—Each MedicarePlus organization shall, for each MedicarePlus plan it operates, have an agreement with an independent quality review and improvement organization approved by the Secretary to perform functions of the type described in sections 1154(a)(4)(B) and 1154(a)(14) with respect to services furnished by MedicarePlus plans for which payment is made under this title.

"(4) TREATMENT OF ACCREDITATION.—The Secretary shall provide that a MedicarePlus organization is deemed to meet requirements of paragraphs (1) through (3) of this subsection and subsection (h) (relating to confidentiality and accuracy of enrollee records) if the organization is accredited (and periodically reaccredited) by a private organization under a process that the Secretary has determined assures that the organization, as a condition of accreditation, applies and enforces standards with respect to the requirements involved that are no less stringent than the standards established under section 1856 to carry out the respective requirements.

"(f) COVERAGE DETERMINATIONS.—

"(1) DECISIONS ON NONEMERGENCY CARE.—A MedicarePlus organization shall make determinations regarding authorization requests for nonemergency care on a timely basis, depending on the urgency of the situation.

"(2) RECONSIDERATIONS.—

"(A) IN GENERAL.—Subject to subsection (g)(4), a reconsideration of a determination of an organization denying coverage shall be made within 30 days of the date of receipt of medical information, but not later than 60 days after the date of the determination.

"(B) PHYSICIAN DECISION ON CERTAIN RECONSIDERATIONS.—A reconsideration relating to a determination to deny coverage based on a lack of medical necessity shall be made only by a physician other than a physician involved in the initial determination.

"(g) GRIEVANCES AND APPEALS.—

"(1) GRIEVANCE MECHANISM.—Each MedicarePlus 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 enrollees with MedicarePlus plans of the organization under this part.

"(2) APPEALS.—An enrollee with a MedicarePlus plan of a MedicarePlus organization under this part who is dissatisfied by reason of the enrollee's failure to receive any health service to which the enrollee believes the enrollee is entitled and at no greater charge than the enrollee believes the enrollee 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 organization a party. If the amount in controversy is $1,000 or more, the individual or 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 organization shall be entitled to be parties to that judicial review. In applying sections 205(b) and 205(g) as provided in this paragraph, 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.

"(3) INDEPENDENT REVIEW OF CERTAIN COVERAGE DENIALS.—The Secretary shall contract with an independent, outside entity to review and resolve reconsiderations that affirm denial of coverage.

"(4) EXPEDITED DETERMINATIONS AND RECONSIDERATIONS.—

"(A) RECEIPT OF REQUESTS.—An enrollee in a MedicarePlus plan may request, either in writing or orally, an expedited determination or reconsideration by the MedicarePlus organization regarding a matter described in paragraph (2). The organization shall also permit the acceptance of such requests by physicians.

"(B) ORGANIZATION PROCEDURES.—

"(i) IN GENERAL.—The MedicarePlus organization shall maintain procedures for expediting organization determinations and reconsiderations when, upon request of an enrollee, the organization determines that the application of normal time frames for making a determination (or a reconsideration involving a determination) could seriously jeopardize the life or health of the enrollee or the enrollee's ability to regain maximum function.

"(ii) TIMELY RESPONSE.—In an urgent case described in clause (i), the organization shall notify the enrollee (and the physician involved, as appropriate) of the determination (or determination on the reconsideration) as expeditiously as the enrollee's health condition requires, but not later than 72 hours (or 24 hours in the case of a reconsideration) of the time of receipt of the request for the determination or reconsideration (or receipt of the information necessary to make the determination or reconsideration), or such longer period as the Secretary may permit in specified cases.

"(h) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—Each MedicarePlus organization shall establish procedures—

"(1) to safeguard the privacy of individually identifiable enrollee information,

"(2) to maintain accurate and timely medical records and other health information for enrollees, and

"(3) to assure timely access of enrollees to their medical information.

"(i) INFORMATION ON ADVANCE DIRECTIVES.—Each MedicarePlus organization shall meet the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).

"(j) RULES REGARDING PHYSICIAN PARTICIPATION.—

"(1) PROCEDURES.—Each MedicarePlus organization shall establish reasonable procedures relating to the participation (under an agreement between a physician and the organization) of physicians under MedicarePlus plans offered by the organization under this part. Such procedures shall include—

"(A) providing notice of the rules regarding participation,

"(B) providing written notice of participation decisions that are adverse to physicians, and

"(C) providing a process within the organization for appealing such adverse decisions, including the presentation of information and views of the physician regarding such decision.

"(2) CONSULTATION IN MEDICAL POLICIES.—A MedicarePlus organization shall consult with physicians who have entered into participation agreements with the organization regarding the organization's medical policy, quality, and medical management procedures.

"(3) PROHIBITING INTERFERENCE WITH PROVIDER ADVICE TO ENROLLEES.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), a MedicarePlus organization (in relation to an individual enrolled under a MedicarePlus plan offered by the organization under this part) shall not prohibit or otherwise restrict a covered health care professional (as defined in subparagraph (D)) from advising such an individual who is a patient of the professional about the health status of the individual or medical care or treatment for the individual's condition or disease, regardless of whether benefits for such care or treatment are provided under the plan, if the professional is acting within the lawful scope of practice.

"(B) CONSCIENCE PROTECTION.—Subparagraph (A) shall not be construed as requiring a MedicarePlus plan to provide, reimburse for, or provide coverage of a counseling or referral service if the MedicarePlus organization offering the plan—

"(i) objects to the provision of such service on moral or religious grounds; and

"(ii) in the manner and through the written instrumentalities such MedicarePlus organization deems appropriate, makes available information on its policies regarding such service to prospective enrollees before or during enrollment and to enrollees within 90 days after the date that the organization or plan adopts a change in policy regarding such a counseling or referral service.

"(C) CONSTRUCTION.—Nothing in subparagraph (B) shall be construed to affect disclosure requirements under State law or under the Employee Retirement Income Security Act of 1974.

"(D) HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this paragraph, the term 'health care professional' means a physician (as defined in section 1861(r)) or other health care professional if coverage for the professional's services is provided under the MedicarePlus plan for the services of the professional. Such term includes a podiatrist, optometrist, chiropractor, psychologist, dentist, physician assistant, physical or occupational therapist and therapy assistant, speech-language pathologist, audiologist, registered or licensed practical nurse (including nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, and certified nurse-midwife), licensed certified social worker, registered respiratory therapist, and certified respiratory therapy technician.

"(4) LIMITATIONS ON PHYSICIAN INCENTIVE PLANS.—

"(A) IN GENERAL.—No MedicarePlus organization may 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 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 a MedicarePlus 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 under this part.

"(5) LIMITATION ON PROVIDER INDEMNIFICATION.—A MedicarePlus organization may not provide (directly or indirectly) for a provider (or group of providers) to indemnify the organization against any liability resulting from a civil action brought for any damage caused to an enrollee with a MedicarePlus plan of the organization under this part by the organization's denial of medically necessary care.

"(k) TREATMENT OF SERVICES FURNISHED BY CERTAIN PROVIDERS.—A physician or other entity (other than a provider of services) that does not have a contract establishing payment amounts for services furnished to an individual enrolled under this part with a MedicarePlus organization (other than under an MSA plan) shall accept as payment in full for covered services under this title that are furnished to such an individual the amounts that the physician or other entity could collect if the individual were not so enrolled. Any penalty or other provision of law that applies to such a payment with respect to an individual entitled to benefits under this title (but not enrolled with a MedicarePlus organization under this part) also applies with respect to an individual so enrolled.

"(l) DISCLOSURE OF USE OF DSH AND TEACHING HOSPITALS.—Each MedicarePlus organization shall provide the Secretary with information on—

"(1) the extent to which the organization provides inpatient and outpatient hospital benefits under this part—

"(A) through the use of hospitals that are eligible for additional payments under section 1886(d)(5)(F)(i) (relating to so-called DSH hospitals), or

"(B) through the use of teaching hospitals that receive payments under section 1886(h); and

"(2) the extent to which differences between payment rates to different hospitals reflect the disproportionate share percentage of low-income patients and the presence of medical residency training programs in those hospitals.

"PAYMENTS TO MEDICAREPLUS ORGANIZATIONS

"SEC. 1853. (a) PAYMENTS TO ORGANIZATIONS.—

"(1) MONTHLY PAYMENTS.—

"(A) IN GENERAL.—Under a contract under section 1857 and subject to subsections (e) and (f), the Secretary shall make monthly payments under this section in advance to each MedicarePlus organization, with respect to coverage of an individual under this part in a MedicarePlus payment area for a month, in an amount equal to 1/12 of the annual MedicarePlus capitation rate (as calculated under subsection (c)) with respect to that individual for that area, adjusted for such risk factors as age, disability status, gender, institutional 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 factors, if such changes will improve the determination of actuarial equivalence.

"(B) SPECIAL RULE FOR END-STAGE RENAL DISEASE.—The Secretary shall establish separate rates of payment to a MedicarePlus organization with respect to classes of individuals determined to have end-stage renal disease and enrolled in a MedicarePlus plan of the organization. Such rates of payment shall be actuarially equivalent to rates paid to other enrollees in the MedicarePlus payment area (or such other area as specified by the Secretary). In accordance with regulations, the Secretary shall provide for the application of the seventh sentence of section 1881(b)(7) to payments under this section covering the provision of renal dialysis treatment in the same manner as such sentence applies to composite rate payments described in such sentence.

"(2) ADJUSTMENT TO REFLECT NUMBER OF ENROLLEES.—

"(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 with an organization 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 a MedicarePlus organization under a 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 organization under this part, except that for purposes of making such retroactive adjustments under this subparagraph, such period may not exceed 90 days.

"(ii) EXCEPTION.—No adjustment may be made under clause (i) with respect to any individual who does not certify that the organization provided the individual with the information required to be disclosed under section 1852(c) at the time the individual enrolled with the organization.

"(3) ESTABLISHMENT OF RISK ADJUSTMENT FACTORS.—

"(A) REPORT.—The Secretary shall develop, and submit to Congress by not later than October 1, 1999, a report on a method of risk adjustment of payment rates under this section that accounts for variations in per capita costs based on health status. Such report shall include an evaluation of such method by an outside, independent actuary of the actuarial soundness of the proposal.

"(B) DATA COLLECTION.—In order to carry out this paragraph, the Secretary shall require MedicarePlus organizations (and eligible organizations with risk-sharing contracts under section 1876) to submit, for periods beginning on or after January 1, 1998, data regarding inpatient hospital services and other services and other information the Secretary deems necessary.

"(C) INITIAL IMPLEMENTATION.—The Secretary shall first provide for implementation of a risk adjustment methodology that accounts for variations in per capita costs based on health status and other demographic factors for payments by no later than January 1, 2000.

"(b) ANNUAL ANNOUNCEMENT OF PAYMENT RATES.—

"(1) ANNUAL ANNOUNCEMENT.—The Secretary shall annually determine, and shall announce (in a manner intended to provide notice to interested parties) not later than August 1 before the calendar year concerned—

"(A) the annual MedicarePlus capitation rate for each MedicarePlus payment area for the year, and

"(B) the risk and other factors to be used in adjusting such rates under subsection (a)(1)(A) for payments for months in that year.

"(2) ADVANCE NOTICE OF METHODOLOGICAL CHANGES.—At least 45 days before making the announcement under paragraph (1) for a year, the Secretary shall provide for notice to MedicarePlus organizations of proposed changes to be made in the methodology from the methodology and assumptions used in the previous announcement and shall provide such organizations an opportunity to comment on such proposed changes.

"(3) EXPLANATION OF ASSUMPTIONS.—In each announcement made under paragraph (1), the Secretary shall include an explanation of the assumptions and changes in methodology used in the announcement in sufficient detail so that MedicarePlus organizations can compute monthly adjusted MedicarePlus capitation rates for individuals in each MedicarePlus payment area which is in whole or in part within the service area of such an organization.

"(c) CALCULATION OF ANNUAL MEDICAREPLUS CAPITATION RATES.—

"(1) IN GENERAL.—For purposes of this part, each annual MedicarePlus capitation rate, for a MedicarePlus payment area for a contract year consisting of a calendar year, is equal to the largest of the amounts specified in the following subparagraphs (A), (B), or (C):

"(A) BLENDED CAPITATION RATE.—The sum of—

"(i) area-specific percentage for the year (as specified under paragraph (2) for the year) of the annual area-specific MedicarePlus capitation rate for the year for the MedicarePlus payment area, as determined under paragraph (3), and

"(ii) national percentage (as specified under paragraph (2) for the year) of the input-price-adjusted annual national MedicarePlus capitation rate for the year, as determined under paragraph (4),

multiplied by the payment adjustment factors described in subparagraphs (A) and (B) of paragraph (5).

"(B) MINIMUM AMOUNT.—12 multiplied by the following amount:

"(i) For 1998, $350 (but not to exceed, in the case of an area outside the 50 States and the District of Columbia, 150 percent of the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) for the area).

"(ii) For a succeeding year, the minimum amount specified in this clause (or clause (i)) for the preceding year increased by the national per capita MedicarePlus growth percentage, specified under paragraph (6) for that succeeding year.

"(C) MINIMUM PERCENTAGE INCREASE.—

"(i) For 1998, 102 percent of the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) for the MedicarePlus payment area.

"(ii) For a subsequent year, 102 percent of the annual MedicarePlus capitation rate under this paragraph for the area for the previous year.

"(2) AREA-SPECIFIC AND NATIONAL PERCENTAGES.—For purposes of paragraph (1)(A)—

"(A) for 1998, the 'area-specific percentage' is 90 percent and the 'national percentage' is 10 percent,

"(B) for 1999, the 'area-specific percentage' is 80 percent and the 'national percentage' is 20 percent,

"(C) for 2000, the 'area-specific percentage' is 70 percent and the 'national percentage' is 30 percent,

"(D) for 2001, the 'area-specific percentage' is 60 percent and the 'national percentage' is 40 percent, and

"(E) for a year after 2001, the 'area-specific percentage' is 50 percent and the 'national percentage' is 50 percent.

"(3) ANNUAL AREA-SPECIFIC MEDICAREPLUS CAPITATION RATE.—For purposes of paragraph (1)(A), the annual area-specific MedicarePlus capitation rate for a MedicarePlus payment area—

"(A) for 1998 is the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) for the area, increased by the national per capita MedicarePlus growth percentage for 1998 (as defined in paragraph (6)); or

"(B) for a subsequent year is the annual area-specific MedicarePlus capitation rate for the previous year determined under this paragraph for the area, increased by the national per capita MedicarePlus growth percentage for such subsequent year.

"(4) INPUT-PRICE-ADJUSTED ANNUAL NATIONAL MEDICAREPLUS CAPITATION RATE.—

"(A) IN GENERAL.—For purposes of paragraph (1)(A), the input-price-adjusted annual national MedicarePlus capitation rate for a MedicarePlus payment area for a year is equal to the sum, for all the types of medicare services (as classified by the Secretary), of the product (for each such type of service) of—

"(i) the national standardized annual MedicarePlus capitation rate (determined under subparagraph (B)) for the year,

"(ii) the proportion of such rate for the year which is attributable to such type of services, and

"(iii) an index that reflects (for that year and that type of services) the relative input price of such services in the area compared to the national average input price of such services.

In applying clause (iii), the Secretary shall, subject to subparagraph (C), apply those indices under this title that are used in applying (or updating) national payment rates for specific areas and localities.

"(B) NATIONAL STANDARDIZED ANNUAL MEDICAREPLUS CAPITATION RATE.—In subparagraph (A)(i), the 'national standardized annual MedicarePlus capitation rate' for a year is equal to—

"(i) the sum (for all MedicarePlus payment areas) of the product of—

"(I) the annual area-specific MedicarePlus capitation rate for that year for the area under paragraph (3), and

"(II) the average number of medicare beneficiaries residing in that area in the year, multiplied by the average of the risk factor weights used to adjust payments under subsection (a)(1)(A) for such beneficiaries in such area; divided by

"(ii) the sum of the products described in clause (i)(II) for all areas for that year.

"(C) SPECIAL RULES FOR 1998.—In applying this paragraph for 1998—

"(i) medicare services shall be divided into 2 types of services: part A services and part B services;

"(ii) the proportions described in subparagraph (A)(ii)—

"(I) for part A services shall be the ratio (expressed as a percentage) of the national average annual per capita rate of payment for part A for 1997 to the total national average annual per capita rate of payment for parts A and B for 1997, and

"(II) for part B services shall be 100 percent minus the ratio described in subclause (I);

"(iii) for part A services, 70 percent of payments attributable to such services shall be adjusted by the index used under section 1886(d)(3)(E) to adjust payment rates for relative hospital wage levels for hospitals located in the payment area involved;

"(iv) for part B services—

"(I) 66 percent of payments attributable to such services shall be adjusted by the index of the geographic area factors under section 1848(e) used to adjust payment rates for physicians' services furnished in the payment area, and

"(II) of the remaining 34 percent of the amount of such payments, 40 percent shall be adjusted by the index described in clause (iii); and

"(v) the index values shall be computed based only on the beneficiary population who are 65 years of age or older and who are not determined to have end stage renal disease.

The Secretary may continue to apply the rules described in this subparagraph (or similar rules) for 1999.

"(5) PAYMENT ADJUSTMENT BUDGET NEUTRALITY FACTORS.—For purposes of paragraph (1)(A)—

"(A) BLENDED RATE PAYMENT ADJUSTMENT FACTOR.—For each year, the Secretary shall compute a blended rate payment adjustment factor such that, not taking into account subparagraphs (B) and (C) of paragraph (1) and the application of the payment adjustment factor described in subparagraph (B), the aggregate of the payments that would be made under this part is equal to the aggregate payments that would have been made under this part (not taking into account such subparagraphs and such other adjustment factor) if the area-specific percentage under paragraph (1) for the year had been 100 percent and the national percentage had been 0 percent.

"(B) FLOOR-AND-MINIMUM-UPDATE PAYMENT ADJUSTMENT FACTOR.—For each year, the Secretary shall compute a floor-and-minimum-update payment adjustment factor so that, taking into account the application of the blended rate payment adjustment factor under subparagraph (A) and subparagraphs (B) and (C) of paragraph (1) and the application of the adjustment factor under this subparagraph, the aggregate of the payments under this part shall not exceed the aggregate payments that would have been made under this part if subparagraphs (B) and (C) of paragraph (1) did not apply and if the floor-and-minimum-update payment adjustment factor under this subparagraph was 1.

"(6) NATIONAL PER CAPITA MEDICAREPLUS GROWTH PERCENTAGE DEFINED.—

"(A) IN GENERAL.—In this part, the 'national per capita MedicarePlus growth percentage' for a year is the percentage determined by the Secretary, by April 30th before the beginning of the year involved, to reflect the Secretary's estimate of the projected per capita rate of growth in expenditures under this title for an individual entitled to benefits under part A and enrolled under part B, reduced by the number of percentage points specified in subparagraph (B) for the year. Separate determinations may be made for aged enrollees, disabled enrollees, and enrollees with end-stage renal disease. Such percentage shall include an adjustment for over or under projection in the growth percentage for previous years.

"(B) ADJUSTMENT.—The number of percentage points specified in this subparagraph is—

"(i) for 1998, 0.5 percentage points,

"(ii) for 1999, 0.5 percentage points,

"(iii) for 2000, 0.5 percentage points,

"(iv) for 2001, 0.5 percentage points,

"(v) for 2002, 0.5 percentage points, and

"(vi) for a year after 2002, 0 percentage points.

"(d) MEDICAREPLUS PAYMENT AREA DEFINED.—

"(1) IN GENERAL.—In this part, except as provided in paragraph (3), the term 'MedicarePlus payment area' means a county, or equivalent area specified by the Secretary.

"(2) RULE FOR ESRD BENEFICIARIES.—In the case of individuals who are determined to have end stage renal disease, the MedicarePlus payment area shall be a State or such other payment area as the Secretary specifies.

"(3) GEOGRAPHIC ADJUSTMENT.—

"(A) IN GENERAL.—Upon written request of the chief executive officer of a State for a contract year (beginning after 1998) made at least 7 months before the beginning of the year, the Secretary shall make a geographic adjustment to a MedicarePlus payment area in the State otherwise determined under paragraph (1)—

"(i) to a single statewide MedicarePlus payment area,

"(ii) to the metropolitan based system described in subparagraph (C), or

"(iii) to consolidating into a single MedicarePlus payment area noncontiguous counties (or equivalent areas described in paragraph (1)) within a State.

Such adjustment shall be effective for payments for months beginning with January of the year following the year in which the request is received.

"(B) BUDGET NEUTRALITY ADJUSTMENT.—In the case of a State requesting an adjustment under this paragraph, the Secretary shall adjust the payment rates otherwise established under this section for MedicarePlus payment areas in the State in a manner so that the aggregate of the payments under this section in the State shall not exceed the aggregate payments that would have been made under this section for MedicarePlus payment areas in the State in the absence of the adjustment under this paragraph.

"(C) METROPOLITAN BASED SYSTEM.—The metropolitan based system described in this subparagraph is one in which—

"(i) all the portions of each metropolitan statistical area in the State or in the case of a consolidated metropolitan statistical area, all of the portions of each primary metropolitan statistical area within the consolidated area within the State, are treated as a single MedicarePlus payment area, and

"(ii) all areas in the State that do not fall within a metropolitan statistical area are treated as a single MedicarePlus payment area.

"(D) AREAS.—In subparagraph (C), the terms 'metropolitan statistical area', 'consolidated metropolitan statistical area', and 'primary metropolitan statistical area' mean any area designated as such by the Secretary of Commerce.

"(e) SPECIAL RULES FOR INDIVIDUALS ELECTING MSA PLANS.—

"(1) IN GENERAL.—If the amount of the monthly premium for an MSA plan for a MedicarePlus payment area for a year is less

than 1/12 of the annual MedicarePlus capitation rate applied under this section for the area and year involved, the Secretary shall deposit an amount equal to 100 percent of such difference in a MedicarePlus MSA established (and, if applicable, designated) by the individual under paragraph (2).

"(2) ESTABLISHMENT AND DESIGNATION OF MEDICAREPLUS MEDICAL SAVINGS ACCOUNT AS REQUIREMENT FOR PAYMENT OF CONTRIBUTION.—In the case of an individual who has elected coverage under an MSA plan, no payment shall be made under paragraph (1) on behalf of an individual for a month unless the individual—

"(A) has established before the beginning of the month (or by such other deadline as the Secretary may specify) a MedicarePlus MSA (as defined in section 138(b)(2) of the Internal Revenue Code of 1986), and

"(B) if the individual has established more than one such MedicarePlus MSA, has designated one of such accounts as the individual's MedicarePlus MSA for purposes of this part.

Under rules under this section, such an individual may change the designation of such account under subparagraph (B) for purposes of this part.

"(3) LUMP SUM DEPOSIT OF MEDICAL SAVINGS ACCOUNT CONTRIBUTION.—In the case of an individual electing an MSA plan effective beginning with a month in a year, the amount of the contribution to the MedicarePlus MSA on behalf of the individual for that month and all successive months in the year shall be deposited during that first month. In the case of a termination of such an election as of a month before the end of a year, the Secretary shall provide for a procedure for the recovery of deposits attributable to the remaining months in the year.

"(f) PAYMENTS FROM TRUST FUND.—The payment to a MedicarePlus organization under this section for individuals enrolled under this part with the organization and payments to a MedicarePlus MSA under subsection (e)(1) shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines reflects the relative weight that benefits under part A and under part B represents of the actuarial value of the total benefits under this title. Monthly payments otherwise payable under this section for October 2001 shall be paid on the last business day of September 2001.

"(g) SPECIAL RULE FOR CERTAIN INPATIENT HOSPITAL STAYS.—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—

"(1) election under this part of a MedicarePlus plan offered by a MedicarePlus organization—

"(A) payment for such services until the date of the individual's discharge shall be made under this title through the MedicarePlus plan or the medicare fee-for-service program option described in section 1851(a)(1)(A) (as the case may be) elected before the election with such organization,

"(B) the elected organization shall not be financially responsible for payment for such services until the date after the date of the individual's discharge, and

"(C) the organization shall nonetheless be paid the full amount otherwise payable to the organization under this part; or

"(2) termination of election with respect to a MedicarePlus organization under this part—

"(A) the organization shall be financially responsible for payment for such services after such date and until the date of the individual's discharge,

"(B) payment for such services during the stay shall not be made under section 1886(d) or by any succeeding MedicarePlus organization, and

"(C) the terminated organization shall not receive any payment with respect to the individual under this part during the period the individual is not enrolled.

"PREMIUMS

"SEC. 1854. (a) SUBMISSION AND CHARGING OF PREMIUMS.—

"(1) IN GENERAL.—Subject to paragraph (3), each MedicarePlus organization shall file with the Secretary each year, in a form and manner and at a time specified by the Secretary—

"(A) the amount of the monthly premium for coverage for services under section 1852(a) under each MedicarePlus plan it offers under this part in each MedicarePlus payment area (as defined in section 1853(d)) in which the plan is being offered; and

"(B) the enrollment capacity in relation to the plan in each such area.

"(2) TERMINOLOGY.—In this part—

"(A) the term 'monthly premium' means, with respect to a MedicarePlus plan offered by a MedicarePlus organization, the monthly premium filed under paragraph (1), not taking into account the amount of any payment made toward the premium under section 1853; and

"(B) the term 'net monthly premium' means, with respect to such a plan and an individual enrolled with the plan, the premium (as defined in subparagraph (A)) for the plan reduced by the amount of payment made toward such premium under section 1853.

"(b) MONTHLY PREMIUM CHARGED.—The monthly amount of the premium charged by a MedicarePlus organization for a MedicarePlus plan offered in a MedicarePlus payment area to an individual under this part shall be equal to the net monthly premium plus any monthly premium charged in accordance with subsection (e)(2) for supplemental benefits.

"(c) UNIFORM PREMIUM.—The monthly premium and monthly amount charged under subsection (b) of a MedicarePlus organization under this part may not vary among individuals who reside in the same MedicarePlus payment area.

"(d) TERMS AND CONDITIONS OF IMPOSING PREMIUMS.—Each MedicarePlus organization shall permit the payment of net monthly premiums on a monthly basis and may terminate election of individuals for a MedicarePlus plan for failure to make premium payments only in accordance with section 1851(g)(3)(B)(i). A MedicarePlus organization is not authorized to provide for cash or other monetary rebates as an inducement for enrollment or otherwise.

"(e) LIMITATION ON ENROLLEE COST-SHARING.—

"(1) FOR BASIC AND ADDITIONAL BENEFITS.—Except as provided in paragraph (2), in no event may—

"(A) the net monthly premium (multiplied by 12) and the actuarial value of the deductibles, coinsurance, and copayments applicable on average to individuals enrolled under this part with a MedicarePlus plan of an organization with respect to required benefits described in section 1852(a)(1) and additional benefits (if any) required under subsection (f)(1) for a year, exceed

"(B) the actuarial value of the deductibles, coinsurance, and copayments that would be applicable on average to individuals entitled to benefits under part A and enrolled under part B if they were not members of a MedicarePlus organization for the year.

"(2) FOR SUPPLEMENTAL BENEFITS.—If the MedicarePlus organization provides to its members enrolled under this part supplemental benefits described in section 1852(a)(3), the sum of the monthly premium rate (multiplied by 12) charged for such supplemental benefits and the actuarial value of its deductibles, coinsurance, and copayments charged with respect to such benefits may not exceed the adjusted community rate for such benefits (as defined in subsection (f)(4)).

"(3) EXCEPTION FOR MSA PLANS.—Paragraphs (1) and (2) do not apply to an MSA plan.

"(4) DETERMINATION ON OTHER BASIS.—If the Secretary determines that adequate data are not available to determine the actuarial value under paragraph (1)(A) or (2), the Secretary may determine such amount with respect to all individuals in the MedicarePlus payment area, the State, or in the United States, eligible to enroll in the MedicarePlus plan involved under this part or on the basis of other appropriate data.

"(f) REQUIREMENT FOR ADDITIONAL BENEFITS.—

"(1) REQUIREMENT.—

"(A) IN GENERAL.—Each MedicarePlus organization (in relation to a MedicarePlus plan it offers) shall provide that if there is an excess amount (as defined in subparagraph (B)) for the plan for a contract year, subject to the succeeding provisions of this subsection, the organization shall provide to individuals such additional benefits (as the organization may specify) in a value which is at least equal to the adjusted excess amount (as defined in subparagraph (C)).

"(B) EXCESS AMOUNT.—For purposes of this paragraph, the 'excess amount', for an organization for a plan, is the amount (if any) by which—

"(i) the average of the capitation payments made to the organization under section 1853 for the plan at the beginning of contract year, exceeds

"(ii) the actuarial value of the required benefits described in section 1852(a)(1) under the plan for individuals under this part, as determined based upon an adjusted community rate described in paragraph (4) (as reduced for the actuarial value of the coinsurance and deductibles under parts A and B).

"(C) ADJUSTED EXCESS AMOUNT.—For purposes of this paragraph, the 'adjusted excess amount', for an organization for a plan, is the excess amount reduced to reflect any amount withheld and reserved for the organization for the year under paragraph (2).

"(D) NO APPLICATION TO MSA PLANS.—Subparagraph (A) shall not apply to an MSA plan.

"(E) UNIFORM APPLICATION.—This paragraph shall be applied uniformly for all enrollees for a plan in a MedicarePlus payment area.

"(F) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing a MedicarePlus organization from providing health care benefits that are in addition to the benefits otherwise required to be provided under this paragraph and from imposing a premium for such additional benefits.

"(2) STABILIZATION FUND.—A MedicarePlus organization may provide that a part of the value of an excess amount described in paragraph (1) 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 such paragraph. Any of such value of the amount reserved which is not provided as additional benefits described in paragraph (1)(A) to individuals electing the MedicarePlus plan of the organization in accordance with such paragraph prior to the end of such periods, shall revert for the use of such trust funds.

"(3) DETERMINATION BASED ON INSUFFICIENT DATA.—For purposes of this subsection, if the Secretary finds that there is insufficient enrollment experience (including no enrollment experience in the case of a provider-sponsored organization) to determine an average of the capitation payments to be made under this part 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.

"(4) ADJUSTED COMMUNITY RATE.—

"(A) IN GENERAL.—For purposes of this subsection, subject to subparagraph (B), the term 'adjusted community rate' for a service or services means, at the election of a MedicarePlus organization, either—

"(i) the rate of payment for that service or services which the Secretary annually determines would apply to an individual electing a MedicarePlus plan under this part 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

"(ii) such portion of the weighted aggregate premium, which the Secretary annually estimates would apply to such an individual, as the Secretary annually estimates is attributable to that service or services,

but adjusted for differences between the utilization characteristics of the individuals electing coverage under this part and the utilization characteristics of the other enrollees with the plan (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of individuals selecting other MedicarePlus coverage, or MedicarePlus eligible individuals in the area, in the State, or in the United States, eligible to elect MedicarePlus coverage under this part and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively).

"(B) SPECIAL RULE FOR PROVIDER-SPONSORED ORGANIZATIONS.—In the case of a MedicarePlus organization that is a provider-sponsored organization, the adjusted community rate under subparagraph (A) for a MedicarePlus plan of the organization may be computed (in a manner specified by the Secretary) using data in the general commercial marketplace or (during a transition period) based on the costs incurred by the organization in providing such a plan.

"(g) PERIODIC AUDITING.—The Secretary shall provide for the annual auditing of the financial records (including data relating to medicare utilization, costs, and computation of the adjusted community rate) of at least one-third of the MedicarePlus organizations offering MedicarePlus plans under this part. The Comptroller General shall monitoring auditing activities conducted under this subsection.

"(h) PROHIBITION OF STATE IMPOSITION OF PREMIUM TAXES.—No State may impose a premium tax or similar tax with respect to premiums on MedicarePlus plans or the offering of such plans.

"ORGANIZATIONAL AND FINANCIAL REQUIREMENTS FOR MEDICAREPLUS ORGANIZATIONS; PROVIDER-SPONSORED ORGANIZATIONS

"SEC. 1855. (a) ORGANIZED AND LICENSED UNDER STATE LAW.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), a MedicarePlus organization shall be organized and licensed under State law as a risk-bearing entity eligible to offer health insurance or health benefits coverage in each State in which it offers a MedicarePlus plan.

"(2) SPECIAL EXCEPTION FOR PROVIDER-SPONSORED ORGANIZATIONS.—

"(A) IN GENERAL.—In the case of a provider-sponsored organization that seeks to offer a MedicarePlus plan in a State, the Secretary shall waive the requirement of paragraph (1) that the organization be licensed in that State if—

"(i) the organization files an application for such waiver with the Secretary, and

"(ii) the Secretary determines, based on the application and other evidence presented to the Secretary, that any of the grounds for approval of the application described in subparagraph (B), (C), or (D) has been met.

"(B) FAILURE TO ACT ON LICENSURE APPLICATION ON A TIMELY BASIS.—A ground for approval of such a waiver application is that the State has failed to complete action on a licensing application of the organization within 90 days of the date of the State's receipt of the completed application. No period before the date of the enactment of this section shall be included in determining such 90-day period.

"(C) DENIAL OF APPLICATION BASED ON DISCRIMINATORY TREATMENT.—A ground for approval of such a waiver application is that the State has denied such a licensing application and—

"(i) the State has imposed documentation or information requirements not related to solvency requirements that are not generally applicable to other entities engaged in substantially similar business, or

"(ii) the standards or review process imposed by the State as a condition of approval of the license imposes any material requirements, procedures, or standards (other than requirements and standards relating to solvency) to such organizations that are not generally applicable to other entities engaged in substantially similar business.

"(D) DENIAL OF APPLICATION BASED ON APPLICATION OF SOLVENCY REQUIREMENTS.—A ground for approval of such a waiver application is that the State has denied such a licensing application based (in whole or in part) on the organization's failure to meet applicable solvency requirements and—

"(i) such requirements are not the same as the solvency standards established under section 1856(a); or

"(ii) the State has imposed as a condition of approval of the license any documentation or information requirements relating to solvency or other material requirements, procedures, or standards relating to solvency that are different from the requirements, procedures, and standards applied by the Secretary under subsection (d)(2).

For purposes of this subparagraph, the term 'solvency requirements' means requirements relating to solvency and other matters covered under the standards established under section 1856(a).

"(E) TREATMENT OF WAIVER.—In the case of a waiver granted under this paragraph for a provider-sponsored organization—

"(i) the waiver shall be effective for a 36-month period, except it may be renewed based on a subsequent application filed during the last 6 months of such period, and

"(ii) any provisions of State law which relate to the licensing of the organization and which prohibit the organization from providing coverage pursuant to a contract under this part shall be superseded.

Nothing in this subparagraph shall be construed as limiting the number of times such a waiver may be renewed.

"(F) PROMPT ACTION ON APPLICATION.—The Secretary shall grant or deny such a waiver application within 60 days after the date the Secretary determines that a substantially complete application has been filed. Nothing in this section shall be construed as preventing an organization which has had such a waiver application denied from submitting a subsequent waiver application.

"(3) EXCEPTION IF REQUIRED TO OFFER MORE THAN MEDICAREPLUS PLANS.—Paragraph (1) shall not apply to a MedicarePlus organization in a State if the State requires the organization, as a condition of licensure, to offer any product or plan other than a MedicarePlus plan.

"(4) LICENSURE DOES NOT SUBSTITUTE FOR OR CONSTITUTE CERTIFICATION.—The fact that an organization is licensed in accordance with paragraph (1) does not deem the organization to meet other requirements imposed under this part.

"(b) PREPAID PAYMENT.—A MedicarePlus organization shall be compensated (except for premiums, deductibles, coinsurance, and copayments) for the provision of health care services to enrolled members under the contract under this part 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.

"(c) ASSUMPTION OF FULL FINANCIAL RISK.—The MedicarePlus organization shall assume full financial risk on a prospective basis for the provision of the health care services (except, at the election of the organization, hospice care) for which benefits are required to be provided under section 1852(a)(1), except that the organization—

"(1) may obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which exceeds $5,000 in any year,

"(2) may obtain insurance or make other arrangements for the cost of such services provided to its enrolled members other than through the organization because medical necessity required their provision before they could be secured through the organization,

"(3) may 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

"(4) may 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.

"(d) CERTIFICATION OF PROVISION AGAINST RISK OF INSOLVENCY FOR UNLICENSED PSOS.—

"(1) IN GENERAL.—Each MedicarePlus organization that is a provider-sponsored organization, that is not licensed by a State under subsection (a), and for which a waiver application has been approved under subsection

(a)(2), shall meet standards established under section 1856(a) relating to the financial solvency and capital adequacy of the organization.

"(2) CERTIFICATION PROCESS FOR SOLVENCY STANDARDS FOR PSOS.—The Secretary shall establish a process for the receipt and approval of applications of a provider-sponsored organization described in paragraph (1) for certification (and periodic recertification) of the organization as meeting such solvency standards. Under such process, the Secretary shall act upon such an application not later than 60 days after the date the application has been received.

"(e) PROVIDER-SPONSORED ORGANIZATION DEFINED.—

"(1) IN GENERAL.—In this part, the term 'provider-sponsored organization' means a public or private entity—

"(A) that is established or organized by a health care provider, or group of affiliated health care providers,

"(B) that provides a substantial proportion (as defined by the Secretary in accordance with paragraph (2)) of the health care items and services under the contract under this part directly through the provider or affiliated group of providers, and

"(C) with respect to which those affiliated providers that share, directly or indirectly, substantial financial risk with respect to the provision of such items and services have at least a majority financial interest in the entity.

"(2) SUBSTANTIAL PROPORTION.—In defining what is a 'substantial proportion' for purposes of paragraph (1)(B), the Secretary—

"(A) shall take into account (i) the need for such an organization to assume responsibility for a substantial proportion of services in order to assure financial stability and (ii) 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) both providers are part of a controlled group of corporations under section 1563 of the Internal Revenue Code of 1986, or

"(C) 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.

"(5) HEALTH CARE PROVIDER DEFINED.—In this subsection, the term 'health care provider' means—

"(A) any individual who is engaged in the delivery of health care services in a State and who is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, and

"(B) any entity that is engaged in the delivery of health care services in a State and that, if it is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, is so licensed.

"(6) REGULATIONS.—The Secretary shall issue regulations to carry out this subsection.

"ESTABLISHMENT OF STANDARDS

"SEC. 1856. (a) ESTABLISHMENT OF SOLVENCY STANDARDS FOR PROVIDER-SPONSORED ORGANIZATIONS.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Secretary shall establish, on an expedited basis and using a negotiated rulemaking process under subchapter III of chapter 5 of title 5, United States Code, standards described in section 1855(d)(1) (relating to the financial solvency and capital adequacy of the organization) that entities must meet to qualify as provider-sponsored organizations under this part.

"(B) FACTORS TO CONSIDER FOR SOLVENCY STANDARDS.—In establishing solvency standards under subparagraph (A) for provider-sponsored organizations, the Secretary shall consult with interested parties and shall take into account—

"(i) the delivery system assets of such an organization and ability of such an organization to provide services directly to enrollees through affiliated providers, and

"(ii) alternative means of protecting against insolvency, including reinsurance, unrestricted surplus, letters of credit, guarantees, organizational insurance coverage, partnerships with other licensed entities, and valuation attributable to the ability of such an organization to meet its service obligations through direct delivery of care.

"(C) ENROLLEE PROTECTION AGAINST INSOLVENCY.—Such standards shall include provisions to prevent enrollees from being held liable to any person or entity for the MedicarePlus organization's debts in the event of the organization's insolvency.

"(2) PUBLICATION OF NOTICE.—In carrying out the rulemaking process under this subsection, the Secretary, after consultation with the National Association of Insurance Commissioners, the American Academy of Actuaries, organizations representative of medicare beneficiaries, and other interested parties, shall publish the notice provided for under section 564(a) of title 5, United States Code, by not later than 45 days after the date of the enactment of this section.

"(3) TARGET DATE FOR PUBLICATION OF RULE.—As part of the notice under paragraph (2), and for purposes of this subsection, the 'target date for publication' (referred to in section 564(a)(5) of such title) shall be April 1, 1998.

"(4) ABBREVIATED PERIOD FOR SUBMISSION OF COMMENTS.—In applying section 564(c) of such title under this subsection, '15 days' shall be substituted for '30 days'.

"(5) APPOINTMENT OF NEGOTIATED RULEMAKING COMMITTEE AND FACILITATOR.—The Secretary shall provide for—

"(A) the appointment of a negotiated rulemaking committee under section 565(a) of such title by not later than 30 days after the end of the comment period provided for under section 564(c) of such title (as shortened under paragraph (4)), and

"(B) the nomination of a facilitator under section 566(c) of such title by not later than 10 days after the date of appointment of the committee.

"(6) PRELIMINARY COMMITTEE REPORT.—The negotiated rulemaking committee appointed under paragraph (5) shall report to the Secretary, by not later than January 1, 1998, regarding the committee's progress on achieving a consensus with regard to the rulemaking proceeding and whether such consensus is likely to occur before one month before the target date for publication of the rule. If the committee reports that the committee has failed to make significant progress towards such consensus or is unlikely to reach such consensus by the target date, the Secretary may terminate such process and provide for the publication of a rule under this subsection through such other methods as the Secretary may provide.

"(7) FINAL COMMITTEE REPORT.—If the committee is not terminated under paragraph (6), the rulemaking committee shall submit a report containing a proposed rule by not later than one month before the target date of publication.

"(8) INTERIM, FINAL EFFECT.—The Secretary shall publish a rule under this subsection in the Federal Register by not later than the target date of publication. Such rule shall be effective and final immediately on an interim basis, but is subject to change and revision after public notice and opportunity for a period (of not less than 60 days) for public comment. In connection with such rule, the Secretary shall specify the process for the timely review and approval of applications of entities to be certified as provider-sponsored organizations pursuant to such rules and consistent with this subsection.

"(9) PUBLICATION OF RULE AFTER PUBLIC COMMENT.—The Secretary shall provide for consideration of such comments and republication of such rule by not later than 1 year after the target date of publication.

"(b) ESTABLISHMENT OF OTHER STANDARDS.—

"(1) IN GENERAL.—The Secretary shall establish by regulation other standards (not described in subsection (a)) for MedicarePlus organizations and plans consistent with, and to carry out, this part.

"(2) USE OF CURRENT STANDARDS.—Consistent with the requirements of this part, standards established under this subsection shall be based on standards established under section 1876 to carry out analogous provisions of such section.

"(3) USE OF INTERIM STANDARDS.—For the period in which this part is in effect and standards are being developed and established under the preceding provisions of this subsection, the Secretary shall provide by not later than June 1, 1998, for the application of such interim standards (without regard to any requirements for notice and public comment) as may be appropriate to provide for the expedited implementation of this part. Such interim standards shall not apply after the date standards are established under the preceding provisions of this subsection.

"(4) APPLICATION OF NEW STANDARDS TO ENTITIES WITH A CONTRACT.—In the case of a MedicarePlus organization with a contract in effect under this part at the time standards applicable to the organization under this section are changed, the organization may elect not to have such changes apply to the organization until the end of the current contract year (or, if there is less than 6 months remaining in the contract year, until 1 year after the end of the current contract year).

"(5) RELATION TO STATE LAWS.—The standards established under this subsection shall supersede any State law or regulation with respect to MedicarePlus plans which are offered by MedicarePlus organizations under this part to the extent such law or regulation is inconsistent with such standards.

"CONTRACTS WITH MEDICAREPLUS ORGANIZATIONS

"SEC. 1857. (a) IN GENERAL.—The Secretary shall not permit the election under section 1851 of a MedicarePlus plan offered by a MedicarePlus organization under this part, and no payment shall be made under section

1853 to an organization, unless the Secretary has entered into a contract under this section with the organization with respect to the offering of such plan. Such a contract with an organization may cover more than one MedicarePlus plan. Such contract shall provide that the organization agrees to comply with the applicable requirements and standards of this part and the terms and conditions of payment as provided for in this part.

"(b) MINIMUM ENROLLMENT REQUIREMENTS.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary may not enter into a contract under this section with a MedicarePlus organization unless the organization has at least 5,000 individuals (or 1,500 individuals in the case of an organization that is a provider-sponsored organization) who are receiving health benefits through the organization, except that the standards under section 1856 may permit the organization to have a lesser number of beneficiaries (but not less than 500 in the case of an organization that is a provider-sponsored organization) if the organization primarily serves individuals residing outside of urbanized areas.

"(2) EXCEPTION FOR MSA PLAN.—Paragraph (1) shall not apply with respect to a contract that relates only to an MSA plan.

"(3) ALLOWING TRANSITION.—The Secretary may waive the requirement of paragraph (1) during the first 3 contract years with respect to an organization.

"(c) CONTRACT PERIOD AND EFFECTIVENESS.—

"(1) PERIOD.—Each contract under this section shall be for a term of at least one 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.

"(2) TERMINATION AUTHORITY.—In accordance with procedures established under subsection (h), the Secretary may at any time terminate any such contract 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 inconsistent with the efficient and effective administration of this part; or

"(C) no longer substantially meets the applicable conditions of this part.

"(3) EFFECTIVE DATE OF CONTRACTS.—The effective date of any contract executed pursuant to this section shall be specified in the contract, except that in no case shall a contract under this section which provides for coverage under an MSA plan be effective before January 1999 with respect to such coverage.

"(4) PREVIOUS TERMINATIONS.—The Secretary may not enter into a contract with a MedicarePlus organization if a previous contract with that organization under this section was terminated at the request of the organization within the preceding five-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

"(5) 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.

"(d) PROTECTIONS AGAINST FRAUD AND BENEFICIARY PROTECTIONS.—

"(1) INSPECTION AND AUDIT.—Each contract under this section shall provide that the Secretary, or any person or organization designated by the Secretary—

"(A) 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

"(B) shall have the right to audit and inspect any books and records of the MedicarePlus 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.

"(2) ENROLLEE NOTICE AT TIME OF TERMINATION.—Each contract under this section shall require the organization 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 with the organization under this part.

"(3) DISCLOSURE.—

"(A) IN GENERAL.—Each MedicarePlus organization shall, in accordance with regulations of the Secretary, report to the Secretary financial information which shall include the following:

"(i) Such information as the Secretary may require demonstrating that the organization has a fiscally sound operation.

"(ii) A copy of the report, if any, filed with the Health Care Financing Administration containing the information required to be reported under section 1124 by disclosing entities.

"(iii) A description of transactions, as specified by the Secretary, between the organization and a party in interest. Such transactions shall include—

"(I) any sale or exchange, or leasing of any property between the organization and a party in interest;

"(II) any furnishing for consideration of goods, services (including management services), or facilities between the organization and a party in interest, but not including salaries paid to employees for services provided in the normal course of their employment and health services provided to members by hospitals and other providers and by staff, medical group (or groups), individual practice association (or associations), or any combination thereof; and

"(III) any lending of money or other extension of credit between an organization and a party in interest.

The Secretary may require that information reported respecting an organization which controls, is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the organization and such entity.

"(B) PARTY IN INTEREST DEFINED.—For the purposes of this paragraph, the term 'party in interest' means—

"(i) any director, officer, partner, or employee responsible for management or administration of a MedicarePlus organization, any person who is directly or indirectly the beneficial owner of more than 5 percent of the equity of the organization, any person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 percent of the organization, and, in the case of a MedicarePlus organization organized as a nonprofit corporation, an incorporator or member of such corporation under applicable State corporation law;

"(ii) any entity in which a person described in clause (i)—

"(I) is an officer or director;

"(II) is a partner (if such entity is organized as a partnership);

"(III) has directly or indirectly a beneficial interest of more than 5 percent of the equity; or

"(IV) has a mortgage, deed of trust, note, or other interest valuing more than 5 percent of the assets of such entity;

"(iii) any person directly or indirectly controlling, controlled by, or under common control with an organization; and

"(iv) any spouse, child, or parent of an individual described in clause (i).

"(C) ACCESS TO INFORMATION.—Each MedicarePlus organization shall make the information reported pursuant to subparagraph (A) available to its enrollees upon reasonable request.

"(4) LOAN INFORMATION.—The contract 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.

"(e) ADDITIONAL CONTRACT TERMS.—

"(1) IN GENERAL.—The contract 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.

"(2) COST-SHARING IN ENROLLMENT-RELATED COSTS.—The contract with a MedicarePlus organization shall require the payment to the Secretary for the organization's pro rata share (as determined by the Secretary) of the estimated costs to be incurred by the Secretary in carrying out section 1851 (relating to enrollment and dissemination of information). Such payments are appropriated to defray the costs described in the preceding sentence, to remain available until expended.

"(f) PROMPT PAYMENT BY MEDICAREPLUS ORGANIZATION.—

"(1) REQUIREMENT.—A contract under this part shall require a MedicarePlus 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 the contract, if the services or supplies are not furnished under a contract between the organization and the provider or supplier.

"(2) SECRETARY'S OPTION TO BYPASS NONCOMPLYING ORGANIZATION.—In the case of a MedicarePlus eligible organization which the Secretary determines, after notice and opportunity for a hearing, has failed to make payments of amounts in compliance with paragraph (1), the Secretary may provide for direct payment of the amounts owed to providers and suppliers for covered services and supplies furnished to individuals enrolled under this part under the contract. If the Secretary provides for the 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 the Secretary's costs in making the payments).

"(g) INTERMEDIATE SANCTIONS.—

"(1) IN GENERAL.—If the Secretary determines that a MedicarePlus organization with a contract under this section—

"(A) 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;

"(B) imposes net monthly premiums on individuals enrolled under this part in excess of the net monthly premiums permitted;

"(C) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this part;

"(D) 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;

"(E) 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;

"(F) fails to comply with the requirements of section 1852(j)(3); or

"(G) 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 paragraph (2).

"(2) REMEDIES.—The remedies described in this paragraph are—

"(A) civil money penalties of not more than $25,000 for each determination under paragraph (1) or, with respect to a determination under subparagraph (D) or (E)(i) of such paragraph, of not more than $100,000 for each such determination, plus, with respect to a determination under paragraph (1)(B), double the excess amount charged in violation of such paragraph (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 paragraph (1)(D), $15,000 for each individual not enrolled as a result of the practice involved,

"(B) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

"(C) suspension of payment to the organization under this part for individuals enrolled after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

"(3) OTHER INTERMEDIATE SANCTIONS.—In the case of a MedicarePlus organization for which the Secretary makes a determination under subsection (c)(2) the basis of which is not described in paragraph (1), the Secretary may apply the following intermediate sanctions:

"(A) Civil money penalties of not more than $25,000 for each determination under subsection (c)(2) 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

"(B) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under subsection (g) during which the deficiency that is the basis of a determination under subsection (c)(2) exists.

"(C) Suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under subsection (c)(2) 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.

"(h) PROCEDURES FOR TERMINATION.—

"(1) IN GENERAL.—The Secretary may terminate a contract with a MedicarePlus organization under this section in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary 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 subsection (c)(2);

"(B) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before terminating the contract.

"(2) CIVIL MONEY PENALTIES.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subsection (f) or under paragraph (2) or (3) of subsection (g) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

"(3) EXCEPTION FOR IMMINENT AND SERIOUS RISK TO HEALTH.—Paragraph (1) shall not apply if the Secretary determines that a delay in termination, resulting from compliance with the procedures specified in such paragraph prior to termination, would pose an imminent and serious risk to the health of individuals enrolled under this part with the organization.

"DEFINITIONS; MISCELLANEOUS PROVISIONS

"SEC. 1859. (a) DEFINITIONS RELATING TO MEDICAREPLUS ORGANIZATIONS.—In this part—

"(1) MEDICAREPLUS ORGANIZATION.—The term 'MedicarePlus organization' means a public or private entity that is certified under section 1856 as meeting the requirements and standards of this part for such an organization.

"(2) PROVIDER-SPONSORED ORGANIZATION.—The term 'provider-sponsored organization' is defined in section 1855(e)(1).

"(b) DEFINITIONS RELATING TO MEDICAREPLUS PLANS.—

"(1) MEDICAREPLUS PLAN.—The term 'MedicarePlus plan' means health benefits coverage offered under a policy, contract, or plan by a MedicarePlus organization pursuant to and in accordance with a contract under section 1857.

"(2) MSA PLAN.—

"(A) IN GENERAL.—The term 'MSA plan' means a MedicarePlus plan that—

"(i) provides reimbursement for at least the items and services described in section 1852(a)(1) in a year but only after the enrollee incurs countable expenses (as specified under the plan) equal to the amount of an annual deductible (described in subparagraph (B));

"(ii) counts as such expenses (for purposes of such deductible) at least all amounts that would have been payable under parts A and B, and that would have been payable by the enrollee as deductibles, coinsurance, or copayments, if the enrollee had elected to receive benefits through the provisions of such parts; and

"(iii) provides, after such deductible is met for a year and for all subsequent expenses for items and services referred to in clause (i) in the year, for a level of reimbursement that is not less than—

"(I) 100 percent of such expenses, or

"(II) 100 percent of the amounts that would have been paid (without regard to any deductibles or coinsurance) under parts A and B with respect to such expenses,

whichever is less.

"(B) DEDUCTIBLE.—The amount of annual deductible under an MSA plan—

"(i) for contract year 1999 shall be not more than $6,000; and

"(ii) for a subsequent contract year shall be not more than the maximum amount of such deductible for the previous contract year under this subparagraph increased by the national per capita MedicarePlus growth percentage under section 1853(c)(6) for the year.

If the amount of the deductible under clause (ii) is not a multiple of $50, the amount shall be rounded to the nearest multiple of $50.

"(c) OTHER REFERENCES TO OTHER TERMS.—

"(1) MEDICAREPLUS ELIGIBLE INDIVIDUAL.—The term 'MedicarePlus eligible individual' is defined in section 1851(a)(3).

"(2) MEDICAREPLUS PAYMENT AREA.—The term 'MedicarePlus payment area' is defined in section 1853(d).

"(3) NATIONAL PER CAPITA MEDICAREPLUS GROWTH PERCENTAGE.—The 'national per capita MedicarePlus growth percentage' is defined in section 1853(c)(6).

"(4) MONTHLY PREMIUM; NET MONTHLY PREMIUM.—The terms 'monthly premium' and 'net monthly premium' are defined in section 1854(a)(2).

"(d) COORDINATED ACUTE AND LONG-TERM CARE BENEFITS UNDER A MEDICAREPLUS PLAN.—Nothing in this part shall be construed as preventing a State from coordinating benefits under a medicaid plan under title XIX with those provided under a MedicarePlus plan in a manner that assures continuity of a full-range of acute care and long-term care services to poor elderly or disabled individuals eligible for benefits under this title and under such plan.

"(e) RESTRICTION ON ENROLLMENT FOR CERTAIN MEDICAREPLUS PLANS.—

"(1) IN GENERAL.—In the case of a MedicarePlus religious fraternal benefit society plan described in paragraph (2), notwithstanding any other provision of this part to the contrary and in accordance with regulations of the Secretary, the society offering the plan may restrict the enrollment of individuals under this part to individuals who are members of the church, convention, or group described in paragraph (3)(B) with which the society is affiliated.

"(2) MEDICAREPLUS RELIGIOUS FRATERNAL BENEFIT SOCIETY PLAN DESCRIBED.—For purposes of this subsection, a MedicarePlus religious fraternal benefit society plan described in this paragraph is a MedicarePlus plan described in section 1851(a)(2)(A) that—

"(A) is offered by a religious fraternal benefit society described in paragraph (3) only to members of the church, convention, or group described in paragraph (3)(B); and

"(B) permits all such members to enroll under the plan without regard to health status-related factors.

Nothing in this subsection shall be construed as waiving any plan requirements relating to financial solvency. In developing solvency standards under section 1856, the Secretary shall take into account open contract and assessment features characteristic of fraternal insurance certificates.

"(3) RELIGIOUS FRATERNAL BENEFIT SOCIETY DEFINED.—For purposes of paragraph (2)(A), a 'religious fraternal benefit society' described in this section is an organization that—

"(A) is exempt from Federal income taxation under section 501(c)(8) of the Internal Revenue Code of 1986;

"(B) is affiliated with, carries out the tenets of, and shares a religious bond with, a church or convention or association of churches or an affiliated group of churches;

"(C) offers, in addition to a MedicarePlus religious fraternal benefit society plan, health coverage to individuals not entitled to benefits under this title who are members of such church, convention, or group; and

"(D) does not impose any limitation on membership in the society based on any health status-related factor.

"(4) PAYMENT ADJUSTMENT.—Under regulations of the Secretary, in the case of individuals enrolled under this part under a MedicarePlus religious fraternal benefit society plan described in paragraph (2), the Secretary shall provide for such adjustment to the payment amounts otherwise established under section 1854 as may be appropriate to assure an appropriate payment level, taking into account the actuarial characteristics and experience of such individuals.".

(b) REPORT ON COVERAGE OF BENEFICIARIES WITH END-STAGE RENAL DISEASE.—The Secretary of Health and Human Services shall provide for a study on the feasibility and impact of removing the limitation under section 1851(b)(3)(B) of the Social Security Act (as inserted by subsection (a)) on eligibility of most individuals medically determined to have end-stage renal disease to enroll in MedicarePlus plans. By not later than October 1, 1998, the Secretary shall submit to Congress a report on such study and shall include in the report such recommendations regarding removing or restricting the limitation as may be appropriate.

(c) REPORT ON MEDICAREPLUS TEACHING PROGRAMS AND USE OF DSH AND TEACHING HOSPITALS.—Based on the information provided to the Secretary of Health and Human Services under section 1852(k) of the Social Security Act and such information as the Secretary may obtain, by not later than October 1, 1999, the Secretary shall submit to Congress a report on graduate medical education programs operated by MedicarePlus organizations and the extent to which MedicarePlus organizations are providing for payments to hospitals described in such section.

SEC. 10002. TRANSITIONAL RULES FOR CURRENT MEDICARE HMO PROGRAM.

(a) AUTHORIZING TRANSITIONAL WAIVER OF 50:50 RULE.—Section 1876(f) (42 U.S.C. 1395mm(f)) is amended—

(1) in paragraph (2), by striking "The Secretary" and inserting "Subject to paragraph (4), the Secretary", and

(2) by adding at the end the following new paragraph:

"(4) Effective for contract periods beginning after December 31, 1996, the Secretary may waive or modify the requirement imposed by paragraph (1) to the extent the Secretary finds that it is in the public interest.".

(b) TRANSITION.—Section 1876 (42 U.S.C. 1395mm) is amended by adding at the end the following new subsection:

"(k)(1) Except as provided in paragraph (3), the Secretary shall not enter into, renew, or continue any risk-sharing contract under this section with an eligible organization for any contract year beginning on or after—

"(A) the date standards for MedicarePlus organizations and plans are first established under section 1856 with respect to MedicarePlus organizations that are insurers or health maintenance organizations, or

"(B) in the case of such an organization with such a contract in effect as of the date such standards were first established, 1 year after such date.

"(2) The Secretary shall not enter into, renew, or continue any risk-sharing contract under this section with an eligible organization for any contract year beginning on or after January 1, 2000.

"(3) An individual who is enrolled in part B only and is enrolled in an eligible organization with a risk-sharing contract under this section on December 31, 1998, may continue enrollment in such organization in accordance with regulations issued by not later then July 1, 1998.

"(4) Notwithstanding subsection (a), the Secretary shall provide that payment amounts under risk-sharing contracts under this section for months in a year (beginning with January 1998) shall be computed—

"(A) with respect to individuals entitled to benefits under both parts A and B, by substituting payment rates under section 1853(a) for the payment rates otherwise established under subsection 1876(a), and

"(B) with respect to individuals only entitled to benefits under part B, by substituting an appropriate proportion of such rates (reflecting the relative proportion of payments under this title attributable to such part) for the payment rates otherwise established under subsection (a).

For purposes of carrying out this paragraph for payments for months in 1998, the Secretary shall compute, announce, and apply the payment rates under section 1853(a) (notwithstanding any deadlines specified in such section) in as timely a manner as possible and may (to the extent necessary) provide for retroactive adjustment in payments made under this section not in accordance with such rates.".

(c) ENROLLMENT TRANSITION RULE.—An individual who is enrolled on December 31, 1998, with an eligible organization under section 1876 of the Social Security Act (42 U.S.C. 1395mm) shall be considered to be enrolled with that organization on January 1, 1999, under part C of title XVIII of such Act if that organization has a contract under that part for providing services on January 1, 1999 (unless the individual has disenrolled effective on that date).

(d) ADVANCE DIRECTIVES.—Section 1866(f) (42 U.S.C. 1395cc(f)) is amended—

(1) in paragraph (1)—

(A) by inserting "1855(i)," after "1833(s),", and

(B) by inserting ", MedicarePlus organization," after "provider of services"; and

(2) in paragraph (2)(E), by inserting "or a MedicarePlus organization" after "section 1833(a)(1)(A)".

(e) EXTENSION OF PROVIDER REQUIREMENT.—Section 1866(a)(1)(O) (42 U.S.C. 1395cc(a)(1)(O)) is amended—

(1) by striking "in the case of hospitals and skilled nursing facilities,";

(2) by striking "inpatient hospital and extended care";

(3) by inserting "with a MedicarePlus organization under part C or" after "any individual enrolled"; and

(4) by striking "(in the case of hospitals) or limits (in the case of skilled nursing facilities)".

(f) ADDITIONAL CONFORMING CHANGES.—

(1) CONFORMING REFERENCES TO PREVIOUS PART C.—Any reference in law (in effect before the date of the enactment of this Act) to part C of title XVIII of the Social Security Act is deemed a reference to part D of such title (as in effect after such date).

(2) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this chapter.

(g) IMMEDIATE EFFECTIVE DATE FOR CERTAIN REQUIREMENTS FOR DEMONSTRATIONS.—Section 1857(e)(2) of the Social Security Act (requiring contribution to certain costs related to the enrollment process comparative materials) applies to demonstrations with respect to which enrollment is effected or coordinated under section 1851 of such Act.

(h) USE OF INTERIM, FINAL REGULATIONS.—In order to carry out the amendments made by this chapter in a timely manner, the Secretary of Health and Human Services may promulgate regulations that take effect on an interim basis, after notice and pending opportunity for public comment.

(i) TRANSITION RULE FOR PSO ENROLLMENT.—In applying subsection (g)(1) of section 1876 of the Social Security Act (42 U.S.C. 1395mm) to a risk-sharing contract entered into with an eligible organization that is a provider-sponsored organization (as defined in section 1855(e)(1) of such Act, as inserted by section 10001) for a contract year beginning on or after January 1, 1998, there shall be substituted for the minimum number of enrollees provided under such section the minimum number of enrollees permitted under section 1857(b)(1) of such Act (as so inserted).

SEC. 10003. CONFORMING CHANGES IN MEDIGAP PROGRAM.

(a) CONFORMING AMENDMENTS TO MEDICAREPLUS CHANGES.—

(1) IN GENERAL.—Section 1882(d)(3)(A)(i) (42 U.S.C. 1395ss(d)(3)(A)(i)) is amended—

(A) in the matter before subclause (I), by inserting "(including an individual electing a MedicarePlus plan under section 1851)" after "of this title"; and

(B) in subclause (II)—

(i) by inserting "in the case of an individual not electing a MedicarePlus plan" after "(II)", and

(ii) by inserting before the comma at the end the following: "or in the case of an individual electing a MedicarePlus plan, a medicare supplemental policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under the MedicarePlus plan or under another medicare supplemental policy".

(2) CONFORMING AMENDMENTS.—Section 1882(d)(3)(B)(i)(I) (42 U.S.C. 1395ss(d)(3)(B)(i)(I)) is amended by inserting "(including any MedicarePlus plan)" after "health insurance policies".

(3) MEDICAREPLUS PLANS NOT TREATED AS MEDICARE SUPPLEMENTARY POLICIES.—Section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended by inserting "or a MedicarePlus plan or" after "does not include"

(b) ADDITIONAL RULES RELATING TO INDIVIDUALS ENROLLED IN MSA PLANS.—Section 1882 (42 U.S.C. 1395ss) is further amended by adding at the end the following new subsection:

"(u)(1) It is unlawful for a person to sell or issue a policy described in paragraph (2) to an individual with knowledge that the individual has in effect under section 1851 an election of an MSA plan.

"(2) A policy described in this subparagraph is a health insurance policy that provides for coverage of expenses that are otherwise required to be counted toward meeting the annual deductible amount provided under the MSA plan.".

Subchapter B—Special Rules for MedicarePlus Medical Savings Accounts

SEC. 10006. MEDICAREPLUS MSA.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to amounts specifically excluded from gross income) is amended by redesignating section 138 as section 139 and by inserting after section 137 the following new section:

"SEC. 138. MEDICAREPLUS MSA.

"(a) EXCLUSION.—Gross income shall not include any payment to the MedicarePlus MSA of an individual by the Secretary of Health and Human Services under part C of title XVIII of the Social Security Act.

"(b) MEDICAREPLUS MSA.—For purposes of this section, the term 'MedicarePlus MSA' means a medical savings account (as defined in section 220(d))—

"(1) which is designated as a MedicarePlus MSA,

"(2) with respect to which no contribution may be made other than—

"(A) a contribution made by the Secretary of Health and Human Services pursuant to part C of title XVIII of the Social Security Act, or

"(B) a trustee-to-trustee transfer described in subsection (c)(4),

"(3) the governing instrument of which provides that trustee-to-trustee transfers described in subsection (c)(4) may be made to and from such account, and

"(4) which is established in connection with an MSA plan described in section 1859(b)(2) of the Social Security Act.

"(c) SPECIAL RULES FOR DISTRIBUTIONS.—

"(1) DISTRIBUTIONS FOR QUALIFIED MEDICAL EXPENSES.—In applying section 220 to a MedicarePlus MSA—

"(A) qualified medical expenses shall not include amounts paid for medical care for any individual other than the account holder, and

"(B) section 220(d)(2)(C) shall not apply.

"(2) PENALTY FOR DISTRIBUTIONS FROM MEDICAREPLUS MSA NOT USED FOR QUALIFIED MEDICAL EXPENSES IF MINIMUM BALANCE NOT MAINTAINED.—

"(A) IN GENERAL.—The tax imposed by this chapter for any taxable year in which there is a payment or distribution from a MedicarePlus MSA which is not used exclusively to pay the qualified medical expenses of the account holder shall be increased by 50 percent of the excess (if any) of—

"(i) the amount of such payment or distribution, over

"(ii) the excess (if any) of—

"(I) the fair market value of the assets in such MSA as of the close of the calendar year preceding the calendar year in which the taxable year begins, over

"(II) an amount equal to 60 percent of the deductible under the MedicarePlus MSA plan covering the account holder as of January 1 of the calendar year in which the taxable year begins.

Section 220(f)(2) shall not apply to any payment or distribution from a MedicarePlus MSA.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply if the payment or distribution is made on or after the date the account holder—

"(i) becomes disabled within the meaning of section 72(m)(7), or

"(ii) dies.

"(C) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) all MedicarePlus MSAs of the account holder shall be treated as 1 account,

"(ii) all payments and distributions not used exclusively to pay the qualified medical expenses of the account holder during any taxable year shall be treated as 1 distribution, and

"(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

"(3) WITHDRAWAL OF ERRONEOUS CONTRIBUTIONS.—Section 220(f)(2) and paragraph (2) of this subsection shall not apply to any payment or distribution from a MedicarePlus MSA to the Secretary of Health and Human Services of an erroneous contribution to such MSA and of the net income attributable to such contribution.

"(4) TRUSTEE-TO-TRUSTEE TRANSFERS.—Section 220(f)(2) and paragraph (2) of this subsection shall not apply to any trustee-to-trustee transfer from a MedicarePlus MSA of an account holder to another MedicarePlus MSA of such account holder.

"(d) SPECIAL RULES FOR TREATMENT OF ACCOUNT AFTER DEATH OF ACCOUNT HOLDER.—In applying section 220(f)(8)(A) to an account which was a MedicarePlus MSA of a decedent, the rules of section 220(f) shall apply in lieu of the rules of subsection (c) of this section with respect to the spouse as the account holder of such MedicarePlus MSA.

"(e) REPORTS.—In the case of a MedicarePlus MSA, the report under section 220(h)—

"(1) shall include the fair market value of the assets in such MedicarePlus MSA as of the close of each calendar year, and

"(2) shall be furnished to the account holder—

"(A) not later than January 31 of the calendar year following the calendar year to which such reports relate, and

"(B) in such manner as the Secretary prescribes in such regulations.

"(f) COORDINATION WITH LIMITATION ON NUMBER OF TAXPAYERS HAVING MEDICAL SAVINGS ACCOUNTS.—Subsection (i) of section 220 shall not apply to an individual with respect to a MedicarePlus MSA, and MedicarePlus MSA's shall not be taken into account in determining whether the numerical limitations under section 220(j) are exceeded."

(b) TECHNICAL AMENDMENTS.—

(1) The last sentence of section 4973(d) of such Code is amended by inserting "or section 138(c)(3)" after "section 220(f)(3)".

(2) Subsection (b) of section 220 of such Code is amended by adding at the end the following new paragraph:

"(7) MEDICARE ELIGIBLE INDIVIDUALS.—The limitation under this subsection for any month with respect to an individual shall be zero for the first month such individual is entitled to benefits under title XVIII of the Social Security Act and for each month thereafter."

(3) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following:

"Sec. 138. MedicarePlus MSA.

"Sec. 139. Cross references to other Acts.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

CHAPTER 2—INTEGRATED LONG-TERM CARE PROGRAMS

Subchapter A—Programs of All-inclusive Care for the Elderly (PACE)

SEC. 10011. COVERAGE OF PACE UNDER THE MEDICARE PROGRAM.

Title XVIII (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

"PAYMENTS TO, AND COVERAGE OF BENEFITS UNDER, PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

"SEC. 1894. (a) RECEIPT OF BENEFITS THROUGH ENROLLMENT IN PACE PROGRAM; DEFINITIONS FOR PACE PROGRAM RELATED TERMS.—

"(1) BENEFITS THROUGH ENROLLMENT IN A PACE PROGRAM.—In accordance with this section, in the case of an individual who is entitled to benefits under part A or enrolled under part B and who is a PACE program eligible individual (as defined in paragraph (5)) with respect to a PACE program offered by a PACE provider under a PACE program agreement—

"(A) the individual may enroll in the program under this section; and

"(B) so long as the individual is so enrolled and in accordance with regulations—

"(i) the individual shall receive benefits under this title solely through such program, and

"(ii) the PACE provider is entitled to payment under and in accordance with this section and such agreement for provision of such benefits.

"(2) PACE PROGRAM DEFINED.—For purposes of this section and section 1932, the term 'PACE program' means a program of all-inclusive care for the elderly that meets the following requirements:

"(A) OPERATION.—The entity operating the program is a PACE provider (as defined in paragraph (3)).

"(B) COMPREHENSIVE BENEFITS.—The program provides comprehensive health care services to PACE program eligible individuals in accordance with the PACE program agreement and regulations under this section.

"(C) TRANSITION.—In the case of an individual who is enrolled under the program under this section and whose enrollment ceases for any reason (including the individual no longer qualifies as a PACE program eligible individual, the termination of a PACE program agreement, or otherwise), the program provides assistance to the individual in obtaining necessary transitional care through appropriate referrals and making the individual's medical records available to new providers.

"(3) PACE PROVIDER DEFINED.—

"(A) IN GENERAL.—For purposes of this section, the term 'PACE provider' means an entity that—

"(i) subject to subparagraph (B), is (or is a distinct part of) a public entity or a private, nonprofit entity organized for charitable purposes under section 501(c)(3) of the Internal Revenue Code of 1986, and

"(ii) has entered into a PACE program agreement with respect to its operation of a PACE program.

"(B) TREATMENT OF PRIVATE, FOR-PROFIT PROVIDERS.—Clause (i) of subparagraph (A) shall not apply—

"(i) to entities subject to a demonstration project waiver under subsection (h); and

"(ii) after the date the report under section 10014(b) of the Balanced Budget Act of 1997 is submitted, unless the Secretary determines

that any of the findings described in subparagraph (A), (B), (C) or (D) of paragraph (2) of such section are true.

"(4) PACE PROGRAM AGREEMENT DEFINED.—For purposes of this section, the term 'PACE program agreement' means, with respect to a PACE provider, an agreement, consistent with this section, section 1932 (if applicable), and regulations promulgated to carry out such sections, between the PACE provider and the Secretary, or an agreement between the PACE provider and a State administering agency for the operation of a PACE program by the provider under such sections.

"(5) PACE PROGRAM ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this section, the term 'PACE program eligible individual' means, with respect to a PACE program, an individual who—

"(A) is 55 years of age or older;

"(B) subject to subsection (c)(4), is determined under subsection (c) to require the level of care required under the State medicaid plan for coverage of nursing facility services;

"(C) resides in the service area of the PACE program; and

"(D) meets such other eligibility conditions as may be imposed under the PACE program agreement for the program under subsection (e)(2)(A)(ii).

"(6) PACE PROTOCOL.—For purposes of this section, the term 'PACE protocol' means the Protocol for the Program of All-inclusive Care for the Elderly (PACE), as published by On Lok, Inc., as of April 14, 1995.

"(7) PACE DEMONSTRATION WAIVER PROGRAM DEFINED.—For purposes of this section, the term 'PACE demonstration waiver program' means a demonstration program under either of the following sections (as in effect before the date of their repeal):

"(A) Section 603(c) of the Social Security Amendments of 1983 (Public Law 98–21), as extended by section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272).

"(B) Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509).

"(8) STATE ADMINISTERING AGENCY DEFINED.—For purposes of this section, the term 'State administering agency' means, with respect to the operation of a PACE program in a State, the agency of that State (which may be the single agency responsible for administration of the State plan under title XIX in the State) responsible for administering PACE program agreements under this section and section 1932 in the State.

"(9) TRIAL PERIOD DEFINED.—

"(A) IN GENERAL.—For purposes of this section, the term 'trial period' means, with respect to a PACE program operated by a PACE provider under a PACE program agreement, the first 3 contract years under such agreement with respect to such program.

"(B) TREATMENT OF ENTITIES PREVIOUSLY OPERATING PACE DEMONSTRATION WAIVER PROGRAMS.—Each contract year (including a year occurring before the effective date of this section) during which an entity has operated a PACE demonstration waiver program shall be counted under subparagraph (A) as a contract year during which the entity operated a PACE program as a PACE provider under a PACE program agreement.

"(10) REGULATIONS.—For purposes of this section, the term 'regulations' refers to interim final or final regulations promulgated under subsection (f) to carry out this section and section 1932.

"(b) SCOPE OF BENEFITS; BENEFICIARY SAFEGUARDS.—

"(1) IN GENERAL.—Under a PACE program agreement, a PACE provider shall—

"(A) provide to PACE program eligible individuals, regardless of source of payment and directly or under contracts with other entities, at a minimum—

"(i) all items and services covered under this title (for individuals enrolled under this section) and all items and services covered under title XIX, but without any limitation or condition as to amount, duration, or scope and without application of deductibles, copayments, coinsurance, or other cost-sharing that would otherwise apply under this title or such title, respectively; and

"(ii) all additional items and services specified in regulations, based upon those required under the PACE protocol;

"(B) provide such enrollees access to necessary covered items and services 24 hours per day, every day of the year;

"(C) provide services to such enrollees through a comprehensive, multidisciplinary health and social services delivery system which integrates acute and long-term care services pursuant to regulations; and

"(D) specify the covered items and services that will not be provided directly by the entity, and to arrange for delivery of those items and services through contracts meeting the requirements of regulations.

"(2) QUALITY ASSURANCE; PATIENT SAFEGUARDS.—The PACE program agreement shall require the PACE provider to have in effect at a minimum—

"(A) a written plan of quality assurance and improvement, and procedures implementing such plan, in accordance with regulations, and

"(B) written safeguards of the rights of enrolled participants (including a patient bill of rights and procedures for grievances and appeals) in accordance with regulations and with other requirements of this title and Federal and State law designed for the protection of patients.

"(c) ELIGIBILITY DETERMINATIONS.—

"(1) IN GENERAL.—The determination of whether an individual is a PACE program eligible individual—

"(A) shall be made under and in accordance with the PACE program agreement, and

"(B) who is entitled to medical assistance under title XIX, shall be made (or who is not so entitled, may be made) by the State administering agency.

"(2) CONDITION.—An individual is not a PACE program eligible individual (with respect to payment under this section) unless the individual's health status has been determined, in accordance with regulations, to be comparable to the health status of individuals who have participated in the PACE demonstration waiver programs. Such determination shall be based upon information on health status and related indicators (such as medical diagnoses and measures of activities of daily living, instrumental activities of daily living, and cognitive impairment) that are part of a uniform minimum data set collected by PACE providers on potential eligible individuals.

"(3) ANNUAL ELIGIBILITY RECERTIFICATIONS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the determination described in subsection (a)(5)(B) for an individual shall be reevaluated at least once a year.

"(B) EXCEPTION.—The requirement of annual reevaluation under subparagraph (A) may be waived during a period in accordance with regulations in those cases where the State administering agency determines that there is no reasonable expectation of improvement or significant change in an individual's condition during the period because of the advanced age, severity of the advanced age, severity of chronic condition, or degree of impairment of functional capacity of the individual involved.

"(4) CONTINUATION OF ELIGIBILITY.—An individual who is a PACE program eligible individual may be deemed to continue to be such an individual notwithstanding a determination that the individual no longer meets the requirement of subsection (a)(5)(B) if, in accordance with regulations, in the absence of continued coverage under a PACE program the individual reasonably would be expected to meet such requirement within the succeeding 6-month period.

"(5) ENROLLMENT; DISENROLLMENT.—The enrollment and disenrollment of PACE program eligible individuals in a PACE program shall be pursuant to regulations and the PACE program agreement and shall permit enrollees to voluntarily disenroll without cause at any time.

"(d) PAYMENTS TO PACE PROVIDERS ON A CAPITATED BASIS.—

"(1) IN GENERAL.—In the case of a PACE provider with a PACE program agreement under this section, except as provided in this subsection or by regulations, the Secretary shall make prospective monthly payments of a capitation amount for each PACE program eligible individual enrolled under the agreement under this section in the same manner and from the same sources as payments are made to a MedicarePlus organization under section 1854 (or, for periods beginning before January 1, 1999, to an eligible organization under a risk-sharing contract under section 1876). Such payments shall be subject to adjustment in the manner described in section 1854(a)(2) or section 1876(a)(1)(E), as the case may be.

"(2) CAPITATION AMOUNT.—The capitation amount to be applied under this subsection for a provider for a contract year shall be an amount specified in the PACE program agreement for the year. Such amount shall be based upon payment rates established for purposes of payment under section 1854 (or, for periods before January 1, 1999, for purposes of risk-sharing contracts under section 1876) and shall be adjusted to take into account the comparative frailty of PACE enrollees and such other factors as the Secretary determines to be appropriate. Such amount under such an agreement shall be computed in a manner so that the total payment level for all PACE program eligible individuals enrolled under a program is less than the projected payment under this title for a comparable population not enrolled under a PACE program.

"(e) PACE PROGRAM AGREEMENT.—

"(1) REQUIREMENT.—

"(A) IN GENERAL.—The Secretary, in close cooperation with the State administering agency, shall establish procedures for entering into, extending, and terminating PACE program agreements for the operation of PACE programs by entities that meet the requirements for a PACE provider under this section, section 1932, and regulations.

"(B) NUMERICAL LIMITATION.—

"(i) IN GENERAL.—The Secretary shall not permit the number of PACE providers with which agreements are in effect under this section or under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 to exceed—

"(I) 40 as of the date of the enactment of this section, or

"(II) as of each succeeding anniversary of such date, the numerical limitation under

this subparagraph for the preceding year plus 20.

Subclause (II) shall apply without regard to the actual number of agreements in effect as of a previous anniversary date.

"(ii) TREATMENT OF CERTAIN PRIVATE, FOR-PROFIT PROVIDERS.—The numerical limitation in clause (i) shall not apply to a PACE provider that—

"(I) is operating under a demonstration project waiver under subsection (h), or

"(II) was operating under such a waiver and subsequently qualifies for PACE provider status pursuant to subsection (a)(3)(B)(ii).

"(2) SERVICE AREA AND ELIGIBILITY.—

"(A) IN GENERAL.—A PACE program agreement for a PACE program—

"(i) shall designate the service area of the program;

"(ii) may provide additional requirements for individuals to qualify as PACE program eligible individuals with respect to the program;

"(iii) shall be effective for a contract year, but may be extended for additional contract years in the absence of a notice by a party to terminate and is subject to termination by the Secretary and the State administering agency at any time for cause (as provided under the agreement);

"(iv) shall require a PACE provider to meet all applicable State and local laws and requirements; and

"(v) shall have such additional terms and conditions as the parties may agree to consistent with this section and regulations.

"(B) SERVICE AREA OVERLAP.—In designating a service area under a PACE program agreement under subparagraph (A)(i), the Secretary (in consultation with the State administering agency) may exclude from designation an area that is already covered under another PACE program agreement, in order to avoid unnecessary duplication of services and avoid impairing the financial and service viability of an existing program.

"(3) DATA COLLECTION.—

"(A) IN GENERAL.—Under a PACE program agreement, the PACE provider shall—

"(i) collect data,

"(ii) maintain, and afford the Secretary and the State administering agency access to, the records relating to the program, including pertinent financial, medical, and personnel records, and

"(iii) make to the Secretary and the State administering agency reports that the Secretary finds (in consultation with State administering agencies) necessary to monitor the operation, cost, and effectiveness of the PACE program under this title and title XIX.

"(B) REQUIREMENTS DURING TRIAL PERIOD.—During the first three years of operation of a PACE program (either under this section or under a PACE demonstration waiver program), the PACE provider shall provide such additional data as the Secretary specifies in regulations in order to perform the oversight required under paragraph (4)(A).

"(4) OVERSIGHT.—

"(A) ANNUAL, CLOSE OVERSIGHT DURING TRIAL PERIOD.—During the trial period (as defined in subsection (a)(9)) with respect to a PACE program operated by a PACE provider, the Secretary (in cooperation with the State administering agency) shall conduct a comprehensive annual review of the operation of the PACE program by the provider in order to assure compliance with the requirements of this section and regulations. Such a review shall include—

"(i) an on-site visit to the program site;

"(ii) comprehensive assessment of a provider's fiscal soundness;

"(iii) comprehensive assessment of the provider's capacity to provide all PACE services to all enrolled participants;

"(iv) detailed analysis of the entity's substantial compliance with all significant requirements of this section and regulations; and

"(v) any other elements the Secretary or State agency considers necessary or appropriate.

"(B) CONTINUING OVERSIGHT.—After the trial period, the Secretary (in cooperation with the State administering agency) shall continue to conduct such review of the operation of PACE providers and PACE programs as may be appropriate, taking into account the performance level of a provider and compliance of a provider with all significant requirements of this section and regulations.

"(C) DISCLOSURE.—The results of reviews under this paragraph shall be reported promptly to the PACE provider, along with any recommendations for changes to the provider's program, and shall be made available to the public upon request.

"(5) TERMINATION OF PACE PROVIDER AGREEMENTS.—

"(A) IN GENERAL.—Under regulations—

"(i) the Secretary or a State administering agency may terminate a PACE program agreement for cause, and

"(ii) a PACE provider may terminate such an agreement after appropriate notice to the Secretary, the State agency, and enrollees.

"(B) CAUSES FOR TERMINATION.—In accordance with regulations establishing procedures for termination of PACE program agreements, the Secretary or a State administering agency may terminate a PACE program agreement with a PACE provider for, among other reasons, the fact that—

"(i) the Secretary or State administering agency determines that—

"(I) there are significant deficiencies in the quality of care provided to enrolled participants; or

"(II) the provider has failed to comply substantially with conditions for a program or provider under this section or section 1932; and

"(ii) the entity has failed to develop and successfully initiate, within 30 days of the date of the receipt of written notice of such a determination, and continue implementation of a plan to correct the deficiencies.

"(C) TERMINATION AND TRANSITION PROCEDURES.—An entity whose PACE provider agreement is terminated under this paragraph shall implement the transition procedures required under subsection (a)(2)(C).

"(6) SECRETARY'S OVERSIGHT; ENFORCEMENT AUTHORITY.—

"(A) IN GENERAL.—Under regulations, if the Secretary determines (after consultation with the State administering agency) that a PACE provider is failing substantially to comply with the requirements of this section and regulations, the Secretary (and the State administering agency) may take any or all of the following actions:

"(i) Condition the continuation of the PACE program agreement upon timely execution of a corrective action plan.

"(ii) Withhold some or all further payments under the PACE program agreement under this section or section 1932 with respect to PACE program services furnished by such provider until the deficiencies have been corrected.

"(iii) Terminate such agreement.

"(B) APPLICATION OF INTERMEDIATE SANCTIONS.—Under regulations, the Secretary may provide for the application against a PACE provider of remedies described in section 1857(f)(2) (or, for periods before January 1, 1999, section 1876(i)(6)(B)) or 1903(m)(5)(B) in the case of violations by the provider of the type described in section 1857(f)(1) (or 1876(i)(6)(A) for such periods) or 1903(m)(5)(A), respectively (in relation to agreements, enrollees, and requirements under this section or section 1932, respectively).

"(7) PROCEDURES FOR TERMINATION OR IMPOSITION OF SANCTIONS.—Under regulations, the provisions of section 1857(g) (or for periods before January 1, 1999, section 1876(i)(9)) shall apply to termination and sanctions respecting a PACE program agreement and PACE provider under this subsection in the same manner as they apply to a termination and sanctions with respect to a contract and a MedicarePlus organization under part C (or for such periods an eligible organization under section 1876).

"(8) TIMELY CONSIDERATION OF APPLICATIONS FOR PACE PROGRAM PROVIDER STATUS.—In considering an application for PACE provider program status, the application shall be deemed approved unless the Secretary, within 90 days after the date of the submission of the application to the Secretary, either denies such request in writing or informs the applicant in writing with respect to any additional information that is needed in order to make a final determination with respect to the application. After the date the Secretary receives such additional information, the application shall be deemed approved unless the Secretary, within 90 days of such date, denies such request.

"(f) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall issue interim final or final regulations to carry out this section and section 1932.

"(2) USE OF PACE PROTOCOL.—

"(A) IN GENERAL.—In issuing such regulations, the Secretary shall, to the extent consistent with the provisions of this section, incorporate the requirements applied to PACE demonstration waiver programs under the PACE protocol.

"(B) FLEXIBILITY.—The Secretary (in close consultation with State administering agencies) may modify or waive such provisions of the PACE protocol in order to provide for reasonable flexibility in adapting the PACE service delivery model to the needs of particular organizations (such as those in rural areas or those that may determine it appropriate to use non-staff physicians accordingly to State licensing law requirements) under this section and section 1932 where such flexibility is not inconsistent with and would not impair the essential elements, objectives, and requirements of the this section, including—

"(i) the focus on frail elderly qualifying individuals who require the level of care provided in a nursing facility;

"(ii) the delivery of comprehensive, integrated acute and long-term care services;

"(iii) the interdisciplinary team approach to care management and service delivery;

"(iv) capitated, integrated financing that allows the provider to pool payments received from public and private programs and individuals; and

"(v) the assumption by the provider over time of full financial risk.

"(3) APPLICATION OF CERTAIN ADDITIONAL BENEFICIARY AND PROGRAM PROTECTIONS.—

"(A) IN GENERAL.—In issuing such regulations and subject to subparagraph (B), the Secretary may apply with respect to PACE programs, providers, and agreements such

requirements of part C (or, for periods before January 1, 1999, section 1876) and section 1903(m) relating to protection of beneficiaries and program integrity as would apply to MedicarePlus organizations under part C (or for such periods eligible organizations under risk-sharing contracts under section 1876) and to health maintenance organizations under prepaid capitation agreements under section 1903(m).

"(B) CONSIDERATIONS.—In issuing such regulations, the Secretary shall—

"(i) take into account the differences between populations served and benefits provided under this section and under part C (or, for periods before January 1, 1999, section 1876) and section 1903(m);

"(ii) not include any requirement that conflicts with carrying out PACE programs under this section; and

"(iii) not include any requirement restricting the proportion of enrollees who are eligible for benefits under this title or title XIX.

"(g) WAIVERS OF REQUIREMENTS.—With respect to carrying out a PACE program under this section, the following requirements of this title (and regulations relating to such requirements) are waived and shall not apply:

"(1) Section 1812, insofar as it limits coverage of institutional services.

"(2) Sections 1813, 1814, 1833, and 1886, insofar as such sections relate to rules for payment for benefits.

"(3) Sections 1814(a)(2)(B), 1814(a)(2)(C), and 1835(a)(2)(A), insofar as they limit coverage of extended care services or home health services.

"(4) Section 1861(i), insofar as it imposes a 3-day prior hospitalization requirement for coverage of extended care services.

"(5) Sections 1862(a)(1) and 1862(a)(9), insofar as they may prevent payment for PACE program services to individuals enrolled under PACE programs.

"(h) DEMONSTRATION PROJECT FOR FOR-PROFIT ENTITIES.—

"(1) IN GENERAL.—In order to demonstrate the operation of a PACE program by a private, for-profit entity, the Secretary (in close consultation with State administering agencies) shall grant waivers from the requirement under subsection (a)(3) that a PACE provider may not be a for-profit, private entity.

"(2) SIMILAR TERMS AND CONDITIONS.—

"(A) IN GENERAL.—Except as provided under subparagraph (B), and paragraph (1), the terms and conditions for operation of a PACE program by a provider under this subsection shall be the same as those for PACE providers that are nonprofit, private organizations.

"(B) NUMERICAL LIMITATION.—The number of programs for which waivers are granted under this subsection shall not exceed 10. Programs with waivers granted under this subsection shall not be counted against the numerical limitation specified in subsection (e)(1)(B).

"(i) CONSTRUCTION.—Nothing in this section or section 1932 shall be construed as preventing a PACE provider from entering into contracts with other governmental or nongovernmental payers for the care of PACE program eligible individuals who are not eligible for benefits under part A, or enrolled under part B, or eligible for medical assistance under title XIX.".

SEC. 10012. ESTABLISHMENT OF PACE PROGRAM AS MEDICAID STATE OPTION.

(a) IN GENERAL.—Title XIX is amended—

(1) in section 1905(a) (42 U.S.C. 1396d(a))—

(A) by striking "and" at the end of paragraph (24);

(B) by redesignating paragraph (25) as paragraph (26); and

(C) by inserting after paragraph (24) the following new paragraph:

"(25) services furnished under a PACE program under section 1932 to PACE program eligible individuals enrolled under the program under such section; and";

(2) by redesignating section 1932, as redesignated by section 114(a) of Public Law 104-193, as section 1933, and

(3) by inserting after section 1931 the following new section:

"SEC. 1932. PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE).

"(a) OPTION.—

"(1) IN GENERAL.—A State may elect to provide medical assistance under this section with respect to PACE program services to PACE program eligible individuals who are eligible for medical assistance under the State plan and who are enrolled in a PACE program under a PACE program agreement. Such individuals need not be eligible for benefits under part A, or enrolled under part B, of title XVIII to be eligible to enroll under this section.

"(2) BENEFITS THROUGH ENROLLMENT IN PACE PROGRAM.—In the case of an individual enrolled with a PACE program pursuant to such an election—

"(A) the individual shall receive benefits under the plan solely through such program, and

"(B) the PACE provider shall receive payment in accordance with the PACE program agreement for provision of such benefits.

"(3) APPLICATION OF DEFINITIONS.—The definitions of terms under section 1894(a) shall apply under this section in the same manner as they apply under section 1894.

"(b) APPLICATION OF MEDICARE TERMS AND CONDITIONS.—Except as provided in this section, the terms and conditions for the operation and participation of PACE program eligible individuals in PACE programs offered by PACE providers under PACE program agreements under section 1894 shall apply for purposes of this section.

"(c) ADJUSTMENT IN PAYMENT AMOUNTS.—In the case of individuals enrolled in a PACE program under this section, the amount of payment under this section shall not be the amount calculated under section 1894(d), but shall be an amount, specified under the PACE agreement, which is less than the amount that would otherwise have been made under the State plan if the individuals were not so enrolled. The payment under this section shall be in addition to any payment made under section 1894 for individuals who are enrolled in a PACE program under such section.

"(d) WAIVERS OF REQUIREMENTS.—With respect to carrying out a PACE program under this section, the following requirements of this title (and regulations relating to such requirements) shall not apply:

"(1) Section 1902(a)(1), relating to any requirement that PACE programs or PACE program services be provided in all areas of a State.

"(2) Section 1902(a)(10), insofar as such section relates to comparability of services among different population groups.

"(3) Sections 1902(a)(23) and 1915(b)(4), relating to freedom of choice of providers under a PACE program.

"(4) Section 1903(m)(2)(A), insofar as it restricts a PACE provider from receiving prepaid capitation payments.

"(e) POST-ELIGIBILITY TREATMENT OF INCOME.—A State may provide for post-eligibility treatment of income for individuals enrolled in PACE programs under this section in the same manner as a State treats post-eligibility income for individuals receiving services under a waiver under section 1915(c).".

(b) CONFORMING AMENDMENTS.—

(1) Section 1902(j) (42 U.S.C. 1396a(j)) is amended by striking "(25)" and inserting "(26)".

(2) Section 1924(a)(5) (42 U.S.C. 1396r-5(a)(5)) is amended—

(A) in the heading, by striking "FROM ORGANIZATIONS RECEIVING CERTAIN WAIVERS" and inserting "UNDER PACE PROGRAMS", and

(B) by striking "from any organization" and all that follows and inserting "under a PACE demonstration waiver program (as defined in subsection (a)(7) of section 1894) or under a PACE program under section 1932.".

(3) Section 1903(f)(4)(C) (42 U.S.C. 1396b(f)(4)(C)) is amended by inserting "or who is a PACE program eligible individual enrolled in a PACE program under section 1932," after "section 1902(a)(10)(A),".

SEC. 10013. EFFECTIVE DATE; TRANSITION.

(a) TIMELY ISSUANCE OF REGULATIONS; EFFECTIVE DATE.—The Secretary of Health and Human Services shall promulgate regulations to carry out this subchapter in a timely manner. Such regulations shall be designed so that entities may establish and operate PACE programs under sections 1894 and 1932 for periods beginning not later than 1 year after the date of the enactment of this Act.

(b) EXPANSION AND TRANSITION FOR PACE DEMONSTRATION PROJECT WAIVERS.—

(1) EXPANSION IN CURRENT NUMBER AND EXTENSION OF DEMONSTRATION PROJECTS.—Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 4118(g) of the Omnibus Budget Reconciliation Act of 1987, is amended—

(A) in paragraph (1), by inserting before the period at the end the following: ", except that the Secretary shall grant waivers of such requirements to up to the applicable numerical limitation specified in section 1894(e)(1)(B) of the Social Security Act"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ", including permitting the organization to assume progressively (over the initial 3-year period of the waiver) the full financial risk"; and

(ii) in subparagraph (C), by adding at the end the following: "In granting further extensions, an organization shall not be required to provide for reporting of information which is only required because of the demonstration nature of the project.".

(2) ELIMINATION OF REPLICATION REQUIREMENT.—Subparagraph (B) of paragraph (2) of such section shall not apply to waivers granted under such section after the date of the enactment of this Act.

(3) TIMELY CONSIDERATION OF APPLICATIONS.—In considering an application for waivers under such section before the effective date of repeals under subsection (c), subject to the numerical limitation under the amendment made by paragraph (1), the application shall be deemed approved unless the Secretary of Health and Human Services, within 90 days after the date of its submission to the Secretary, either denies such request in writing or informs the applicant in writing with respect to any additional information which is needed in order to make a final determination with respect to the application. After the date the Secretary receives such additional information, the application shall be deemed approved unless the Secretary, within 90 days of such date, denies such request.

(c) PRIORITY AND SPECIAL CONSIDERATION IN APPLICATION.—During the 3-year period beginning on the date of the enactment of this Act:

(1) PROVIDER STATUS.—The Secretary of Health and Human Services shall give priority, in processing applications of entities to qualify as PACE programs under section 1894 or 1932 of the Social Security Act—

(A) first, to entities that are operating a PACE demonstration waiver program (as defined in section 1894(a)(7) of such Act), and

(B) then entities that have applied to operate such a program as of May 1, 1997.

(2) NEW WAIVERS.—The Secretary shall give priority, in the awarding of additional waivers under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986—

(A) to any entities that have applied for such waivers under such section as of May 1, 1997; and

(B) to any entity that, as of May 1, 1997, has formally contracted with a State to provide services for which payment is made on a capitated basis with an understanding that the entity was seeking to become a PACE provider.

(3) SPECIAL CONSIDERATION.—The Secretary shall give special consideration, in the processing of applications described in paragraph (1) and the awarding of waivers described in paragraph (2), to an entity which as of May 1, 1997 through formal activities (such as entering into contracts for feasibility studies) has indicated a specific intent to become a PACE provider.

(d) REPEAL OF CURRENT PACE DEMONSTRATION PROJECT WAIVER AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (2), the following provisions of law are repealed:

(A) Section 603(c) of the Social Security Amendments of 1983 (Public Law 98–21).

(B) Section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272).

(C) Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509).

(2) DELAY IN APPLICATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the repeals made by paragraph (1) shall not apply to waivers granted before the initial effective date of regulations described in subsection (a).

(B) APPLICATION TO APPROVED WAIVERS.—Such repeals shall apply to waivers granted before such date only after allowing such organizations a transition period (of up to 24 months) in order to permit sufficient time for an orderly transition from demonstration project authority to general authority provided under the amendments made by this subchapter.

SEC. 10014. STUDY AND REPORTS.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in close consultation with State administering agencies, as defined in section 1894(a)(8) of the Social Security Act) shall conduct a study of the quality and cost of providing PACE program services under the medicare and medicaid programs under the amendments made by this subchapter.

(2) STUDY OF PRIVATE, FOR-PROFIT PROVIDERS.—Such study shall specifically compare the costs, quality, and access to services by entities that are private, for-profit entities operating under demonstration projects waivers granted under section 1894(h) of the Social Security Act with the costs, quality, and access to services of other PACE providers.

(b) REPORT.—

(1) IN GENERAL.—Not later than 4 years after the date of the enactment of this Act, the Secretary shall provide for a report to Congress on the impact of such amendments on quality and cost of services. The Secretary shall include in such report such recommendations for changes in the operation of such amendments as the Secretary deems appropriate.

(2) TREATMENT OF PRIVATE, FOR-PROFIT PROVIDERS.—The report shall include specific findings on whether any of the following findings is true:

(A) The number of covered lives enrolled with entities operating under demonstration project waivers under section 1894(h) of the Social Security Act is fewer than 800 (or such lesser number as the Secretary may find statistically sufficient to make determinations respecting findings described in the succeeding subparagraphs).

(B) The population enrolled with such entities is less frail than the population enrolled with other PACE providers.

(C) Access to or quality of care for individuals enrolled with such entities is lower than such access or quality for individuals enrolled with other PACE providers.

(D) The application of such section has resulted in an increase in expenditures under the medicare or medicaid programs above the expenditures that would have been made if such section did not apply.

(c) INFORMATION INCLUDED IN ANNUAL RECOMMENDATIONS.—The Medicare Payment Advisory Commission shall include in its annual report under section 1805(b)(1)(B) of the Social Security Act recommendations on the methodology and level of payments made to PACE providers under section 1894(d) of such Act and on the treatment of private, for-profit entities as PACE providers.

Subchapter B—Social Health Maintenance Organizations

SEC. 10015. SOCIAL HEALTH MAINTENANCE ORGANIZATIONS (SHMOS).

(a) EXTENSION OF DEMONSTRATION PROJECT AUTHORITIES.—Section 4018(b) of the Omnibus Budget Reconciliation Act of 1987 is amended—

(1) in paragraph (1), by striking "1997" and inserting "2000", and

(2) in paragraph (4), by striking "1998" and inserting "2001".

(b) EXPANSION OF CAP.—Section 13567(c) of the Omnibus Budget Reconciliation Act of 1993 is amended by striking "12,000" and inserting "36,000".

(b) REPORT ON INTEGRATION AND TRANSITION.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall submit to Congress, by not later than January 1, 1999, a plan for the integration of health plans offered by social health maintenance organizations (including SHMO I and SHMO II sites developed under section 2355 of the Deficit Reduction Act of 1984 and under the amendment made by section 4207(b)(3)(B)(i) of OBRA–1990, respectively) and similar plans as an option under the MedicarePlus program under part C of title XVIII of the Social Security Act.

(2) PROVISION FOR TRANSITION.—Such plan shall include a transition for social health maintenance organizations operating under demonstration project authority under such section.

(3) PAYMENT POLICY.—The report shall also include recommendations on appropriate payment levels for plans offered by such organizations, including an analysis of the application of risk adjustment factors appropriate to the population served by such organizations.

Subchapter C—Other Programs

SEC. 10018. ORDERLY TRANSITION OF MUNICIPAL HEALTH SERVICE DEMONSTRATION PROJECTS.

Section 9215 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 6135 of OBRA–1989 and section 13557 of OBRA–1993, is further amended—

(1) by inserting "(a)" before "The Secretary", and

(2) by adding at the end the following: "Subject to subsection (c), the Secretary may further extend such demonstration projects through December 31, 2000, but only with respect to individuals are enrolled with such projects before January 1, 1998.

"(b) The Secretary shall work with each such demonstration project to develop a plan, to be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate by March 31, 1998, for the orderly transition of demonstration projects and the project enrollees to a non-demonstration project health care delivery system, such as through integration with private or public health plan, including a medicaid managed care or MedicarePlus plan.

"(c) A demonstration project under subsection (a) which does not develop and submit a transition plan under subsection (b) by March 31, 1998, or, if later, 6 months after the date of the enactment of this Act, shall be discontinued as of December 31, 1998. The Secretary shall provide appropriate technical assistance to assist in the transition so that disruption of medical services to project enrollees may be minimized.".

SEC. 10019. EXTENSION OF CERTAIN MEDICARE COMMUNITY NURSING ORGANIZATION DEMONSTRATION PROJECTS.

Notwithstanding any other provision of law, demonstration projects conducted under section 4079 of the Omnibus Budget Reconciliation Act of 1987 may be conducted for an additional period of 2 years, and the deadline for any report required relating to the results of such projects shall be not later than 6 months before the end of such additional period.

CHAPTER 3—MEDICARE PAYMENT ADVISORY COMMISSION

SEC. 10021. MEDICARE PAYMENT ADVISORY COMMISSION.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1804 the following new section:

"MEDICARE PAYMENT ADVISORY COMMISSION

"SEC. 1805. (a) ESTABLISHMENT.—There is hereby established the Medicare Payment Advisory Commission (in this section referred to as the 'Commission').

"(b) DUTIES.—

"(1) REVIEW OF PAYMENT POLICIES AND ANNUAL REPORTS.—The Commission shall—

"(A) review payment policies under this title, including the topics described in paragraph (2);

"(B) make recommendations to Congress concerning such payment policies;

"(C) by not later than March 1 of each year (beginning with 1998), submit a report to Congress containing the results of such reviews and its recommendations concerning such policies; and

"(D) by not later than June 1 of each year (beginning with 1998), submit a report to Congress containing an examination of issues affecting the medicare program, including the implications of changes in health care delivery in the United States and in the market for health care services on the medicare program.

"(2) SPECIFIC TOPICS TO BE REVIEWED.—

"(A) MEDICAREPLUS PROGRAM.—Specifically, the Commission shall review, with respect to the MedicarePlus program under part C, the following:

"(i) The methodology for making payment to plans under such program, including the making of differential payments and the distribution of differential updates among different payment areas.

"(ii) The mechanisms used to adjust payments for risk and the need to adjust such mechanisms to take into account health status of beneficiaries.

"(iii) The implications of risk selection both among MedicarePlus organizations and between the MedicarePlus option and the medicare fee-for-service option.

"(iv) The development and implementation of mechanisms to assure the quality of care for those enrolled with MedicarePlus organizations.

"(v) The impact of the MedicarePlus program on access to care for medicare beneficiaries.

"(vi) Other major issues in implementation and further development of the MedicarePlus program.

"(B) FEE-FOR-SERVICE SYSTEM.—Specifically, the Commission shall review payment policies under parts A and B, including—

"(i) the factors affecting expenditures for services in different sectors, including the process for updating hospital, skilled nursing facility, physician, and other fees,

"(ii) payment methodologies, and

"(iii) their relationship to access and quality of care for medicare beneficiaries.

"(C) INTERACTION OF MEDICARE PAYMENT POLICIES WITH HEALTH CARE DELIVERY GENERALLY.—Specifically, the Commission shall review the effect of payment policies under this title on the delivery of health care services other than under this title and assess the implications of changes in health care delivery in the United States and in the general market for health care services on the medicare program.

"(3) COMMENTS ON CERTAIN SECRETARIAL REPORTS.—If the Secretary submits to Congress (or a committee of Congress) a report that is required by law and that relates to payment policies under this title, the Secretary shall transmit a copy of the report to the Commission. The Commission shall review the report and, not later than 6 months after the date of submittal of the Secretary's report to Congress, shall submit to the appropriate committees of Congress written comments on such report. Such comments may include such recommendations as the Commission deems appropriate.

"(4) AGENDA AND ADDITIONAL REVIEWS.—The Commission shall consult periodically with the chairmen and ranking minority members of the appropriate committees of Congress regarding the Commission's agenda and progress towards achieving the agenda. The Commission may conduct additional reviews, and submit additional reports to the appropriate committees of Congress, from time to time on such topics relating to the program under this title as may be requested by such chairmen and members and as the Commission deems appropriate.

"(5) AVAILABILITY OF REPORTS.—The Commission shall transmit to the Secretary a copy of each report submitted under this subsection and shall make such reports available to the public.

"(6) APPROPRIATE COMMITTEES.—For purposes of this section, the term 'appropriate committees of Congress' means the Committees on Ways and Means and Commerce of the House of Representatives and the Committee on Finance of the Senate.

"(c) MEMBERSHIP.—

"(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 19 members appointed by the Comptroller General.

"(2) QUALIFICATIONS.—

"(A) IN GENERAL.—The membership of the Commission shall include individuals with national recognition for their expertise in health finance and economics, actuarial science, health facility management, health plans and integrated delivery systems, reimbursement of health facilities, allopathic and osteopathic physicians, and other providers of health services, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives.

"(B) INCLUSION.—The membership of the Commission shall include (but not be limited to) physicians and other health professionals, employers, third party payers, individuals skilled in the conduct and interpretation of biomedical, health services, and health economics research and expertise in outcomes and effectiveness research and technology assessment. Such membership shall also include representatives of consumers and the elderly.

"(C) MAJORITY NONPROVIDERS.—Individuals who are directly involved in the provision, or management of the delivery, of items and services covered under this title shall not constitute a majority of the membership of the Commission.

"(D) ETHICAL DISCLOSURE.—The Comptroller General shall establish a system for public disclosure by members of the Commission of financial and other potential conflicts of interest relating to such members.

"(3) TERMS.—

"(A) IN GENERAL.—The terms of members of the Commission shall be for 3 years except that the Comptroller General shall designate staggered terms for the members first appointed.

"(B) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(4) COMPENSATION.—While serving on the business of the Commission (including traveltime), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from home and member's regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of the Commission. Physicians serving as personnel of the Commission may be provided a physician comparability allowance by the Commission in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to the Commission in the same manner as it applies to the Tennessee Valley Authority. For purposes of pay (other than pay of members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the United States Senate.

"(5) CHAIRMAN; VICE CHAIRMAN.—The Comptroller General shall designate a member of the Commission, at the time of appointment of the member, as Chairman and a member as Vice Chairman for that term of appointment.

"(6) MEETINGS.—The Commission shall meet at the call of the Chairman.

"(d) DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.—Subject to such review as the Comptroller General deems necessary to assure the efficient administration of the Commission, the Commission may—

"(1) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General) and such other personnel as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

"(2) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

"(3) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5));

"(4) make advance, progress, and other payments which relate to the work of the Commission;

"(5) provide transportation and subsistence for persons serving without compensation; and

"(6) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.

"(e) POWERS.—

"(1) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of that department or agency shall furnish that information to the Commission on an agreed upon schedule.

"(2) DATA COLLECTION.—In order to carry out its functions, the Commission shall—

"(A) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section,

"(B) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate, and

"(C) adopt procedures allowing any interested party to submit information for the Commission's use in making reports and recommendations.

"(3) ACCESS OF GAO TO INFORMATION.—The Comptroller General shall have unrestricted access to all deliberations, records, and nonproprietary data of the Commission, immediately upon request.

"(4) PERIODIC AUDIT.—The Commission shall be subject to periodic audit by the Comptroller General.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) REQUEST FOR APPROPRIATIONS.—The Commission shall submit requests for appropriations in the same manner as the Comptroller General submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Comptroller General.

"(2) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. 60 percent of such appropriation shall

be payable from the Federal Hospital Insurance Trust Fund, and 40 percent of such appropriation shall be payable from the Federal Supplementary Medical Insurance Trust Fund.".

(b) ABOLITION OF PROPAC AND PPRC.—

(1) PROPAC.—

(A) IN GENERAL.—Section 1886(e) (42 U.S.C. 1395ww(e)) is amended—

(i) by striking paragraphs (2) and (6); and

(ii) in paragraph (3), by striking "(A) The Commission" and all that follows through "(B)".

(B) CONFORMING AMENDMENT.—Section 1862 (42 U.S.C. 1395y) is amended by striking "Prospective Payment Assessment Commission" each place it appears in subsection (a)(1)(D) and subsection (i) and inserting "Medicare Payment Advisory Commission".

(2) PPRC.—

(A) IN GENERAL.—Title XVIII is amended by striking section 1845 (42 U.S.C. 1395w–1).

(B) ELIMINATION OF CERTAIN REPORTS.—Section 1848 (42 U.S.C. 1395w–4) is amended—

(i) by striking subparagraph (F) of subsection (d)(2),

(ii) by striking subparagraph (B) of subsection (f)(1), and

(iii) in subsection (f)(3), by striking "Physician Payment Review Commission,".

(C) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w–4) is amended by striking "Physician Payment Review Commission" and inserting "Medicare Payment Advisory Commission" each place it appears in subsections (c)(2)(B)(iii), (g)(6)(C), and (g)(7)(C).

(c) EFFECTIVE DATE; TRANSITION.—

(1) IN GENERAL.—The Comptroller General shall first provide for appointment of members to the Medicare Payment Advisory Commission (in this subsection referred to as "MedPAC") by not later than September 30, 1997.

(2) TRANSITION.—As quickly as possible after the date a majority of members of MedPAC are first appointed, the Comptroller General, in consultation with the Prospective Payment Assessment Commission (in this subsection referred to as "ProPAC") and the Physician Payment Review Commission (in this subsection referred to as "PPRC"), shall provide for the termination of the ProPAC and the PPRC. As of the date of termination of the respective Commissions, the amendments made by paragraphs (1) and (2), respectively, of subsection (b) become effective. The Comptroller General, to the extent feasible, shall provide for the transfer to the MedPAC of assets and staff of the ProPAC and the PPRC, without any loss of benefits or seniority by virtue of such transfers. Fund balances available to the ProPAC or the PPRC for any period shall be available to the MedPAC for such period for like purposes.

(3) CONTINUING RESPONSIBILITY FOR REPORTS.—The MedPAC shall be responsible for the preparation and submission of reports required by law to be submitted (and which have not been submitted by the date of establishment of the MedPAC) by the ProPAC and the PPRC, and, for this purpose, any reference in law to either such Commission is deemed, after the appointment of the MedPAC, to refer to the MedPAC.

CHAPTER 4—MEDIGAP PROTECTIONS

SEC. 10031. MEDIGAP PROTECTIONS.

(a) GUARANTEEING ISSUE WITHOUT PREEXISTING CONDITIONS FOR CONTINUOUSLY COVERED INDIVIDUALS.—Section 1882(s) (42 U.S.C. 1395ss(s)) is amended—

(1) in paragraph (3), by striking "paragraphs (1) and (2)" and inserting "this subsection",

(2) by redesignating paragraph (3) as paragraph (4), and

(3) by inserting after paragraph (2) the following new paragraph:

"(3)(A) The issuer of a medicare supplemental policy—

"(i) may not deny or condition the issuance or effectiveness of a medicare supplemental policy described in subparagraph (C) that is offered and is available for issuance to new enrollees by such issuer;

"(ii) may not discriminate in the pricing of such policy, because of health status, claims experience, receipt of health care, or medical condition; and

"(iii) may not impose an exclusion of benefits based on a pre-existing condition under such policy,

in the case of an individual described in subparagraph (B) who seeks to enroll under the policy not later than 63 days after the date of the termination of enrollment described in such subparagraph and who submits evidence of the date of termination or disenrollment along with the application for such medicare supplemental policy.

"(B) An individual described in this subparagraph is an individual described in any of the following clauses:

"(i) The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under this title and the plan terminates or ceases to provide all such supplemental health benefits to the individual.

"(ii) The individual is enrolled with a MedicarePlus organization under a MedicarePlus plan under part C, and there are circumstances permitting discontinuance of the individual's election of the plan under section 1851(c)(4).

"(iii) The individual is enrolled with an eligible organization under a contract under section 1876, a similar organization operating under demonstration project authority, with an organization under an agreement under section 1833(a)(1)(A), or with an organization under a policy described in subsection (t), and such enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under section 1851(c)(4) and, in the case of a policy described in subsection (t), there is no provision under applicable State law for the continuation of coverage under such policy.

"(iv) The individual is enrolled under a medicare supplemental policy under this section and such enrollment ceases because—

"(I) of the bankruptcy or insolvency of the issuer or because of other involuntary termination of coverage or enrollment under such policy and there is no provision under applicable State law for the continuation of such coverage;

"(II) the issuer of the policy substantially violated a material provision of the policy; or

"(III) the issuer (or an agent or other entity acting on the issuer's behalf) materially misrepresented the policy's provisions in marketing the policy to the individual.

"(v) The individual—

"(I) was enrolled under a medicare supplemental policy under this section,

"(II) subsequently terminates such enrollment and enrolls, for the first time, with any MedicarePlus organization under a MedicarePlus plan under part C, any eligible organization under a contract under section 1876, any similar organization operating under demonstration project authority, any organization under an agreement under section 1833(a)(1)(A), or any policy described in subsection (t), and

"(III) the subsequent enrollment under subclause (II) is terminated by the enrollee during the first 6 months (or 3 months for terminations occurring on or after January 1, 2003) of such enrollment.

"(C)(i) Subject to clauses (ii) and (iii), a medicare supplemental policy described in this subparagraph has a benefit package classified as 'A', 'B', 'C', or 'F' under the standards established under subsection (p)(2).

"(ii) Only for purposes of an individual described in subparagraph (B)(v), a medicare supplemental policy described in this subparagraph also includes (if available from the same issuer) the same medicare supplemental policy referred to in such subparagraph in which the individual was most recently previously enrolled.

"(iii) For purposes of applying this paragraph in the case of a State that provides for offering of benefit packages other than under the classification referred to in clause (i), the references to benefit packages in such clause are deemed references to comparable benefit packages offered in such State.

"(D) At the time of an event described in subparagraph (B) because of which an individual ceases enrollment or loses coverage or benefits under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, the insurer offering the policy, or the administrator of the plan, respectively, shall notify the individual of the rights of the individual, and obligations of issuers of medicare supplemental policies, under subparagraph (A).".

(b) LIMITATION ON IMPOSITION OF PREEXISTING CONDITION EXCLUSION DURING INITIAL OPEN ENROLLMENT PERIOD.—Section 1882(s)(2) (42 U.S.C. 1395ss(s)(2)) is amended—

(1) in subparagraph (B), by striking "subparagraph (C)" and inserting "subparagraphs (C) and (D)", and

(2) by adding at the end the following new subparagraph:

"(D) In the case of a policy issued during the 6-month period described in subparagraph (A) to an individual who is 65 years of age or older as of the date of issuance and who as of the date of the application for enrollment has a continuous period of creditable coverage (as defined in 2701(c) of the Public Health Service Act) of—

"(i) at least 6 months, the policy may not exclude benefits based on a pre-existing condition; or

"(ii) of less than 6 months, if the policy excludes benefits based on a preexisting condition, the policy shall reduce the period of any preexisting condition exclusion by the aggregate of the periods of creditable coverage (if any, as so defined) applicable to the individual as of the enrollment date.

The Secretary shall specify the manner of the reduction under clause (ii), based upon the rules used by the Secretary in carrying out section 2701(a)(3) of such Act.".

(c) EFFECTIVE DATES.—

(1) GUARANTEED ISSUE.—The amendment made by subsection (a) shall take effect on July 1, 1998.

(2) LIMIT ON PREEXISTING CONDITION EXCLUSIONS.—The amendment made by subsection (b) shall apply to policies issued on or after July 1, 1998.

(d) TRANSITION PROVISIONS.—

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security

Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC STANDARDS.—If, within 9 months after the date of the enactment of this Act, the National Association of Insurance Commissioners (in this subsection referred to as the "NAIC") modifies its NAIC Model Regulation relating to section 1882 of the Social Security Act (referred to in such section as the 1991 NAIC Model Regulation, as modified pursuant to section 171(m)(2) of the Social Security Act Amendments of 1994 (Public Law 103–432) and as modified pursuant to section 1882(d)(3)(A)(vi)(IV) of the Social Security Act, as added by section 271(a) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191) to conform to the amendments made by this section, such revised regulation incorporating the modifications shall be considered to be the applicable NAIC model regulation (including the revised NAIC model regulation and the 1991 NAIC Model Regulation) for the purposes of such section.

(3) SECRETARY STANDARDS.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall make the modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the appropriate Regulation for the purposes of such section.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) 1 year after the date the NAIC or the Secretary first makes the modifications under paragraph (2) or (3), respectively.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 1999 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after July 1, 1999. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 10032. MEDICARE PREPAID COMPETITIVE PRICING DEMONSTRATION PROJECT.

(a) ESTABLISHMENT OF PROJECT.—The Secretary of Health and Human Services shall provide, beginning not later than 1 year after the date of the enactment of this Act, for implementation of a project (in this section referred to as the "project") to demonstrate the application of, and the consequences of applying, a market-oriented pricing system for the provision of a full range of medicare benefits in a geographic area.

(b) RESEARCH DESIGN ADVISORY COMMITTEE.—

(1) IN GENERAL.—Before implementing the project under this section, the Secretary shall appoint a national advisory committee, including independent actuaries and individuals with expertise in competitive health plan pricing, to make recommendations to the Secretary concerning the appropriate research design for implementing the project.

(2) INITIAL RECOMMENDATIONS.—The committee initially shall submit recommendations respecting the method for area selection, benefit design among plans offered, structuring choice among health plans offered, methods for setting the price to be paid to plans, collection of plan information (including information concerning quality and access to care), information dissemination, and methods of evaluating the results of the project.

(3) ADVICE DURING IMPLEMENTATION.—Upon implementation of the project, the committee shall continue to advise the Secretary on the application of the design in different areas and changes in the project based on experience with its operations.

(c) AREA SELECTION.—

(1) IN GENERAL.—Taking into account the recommendations of the advisory committee submitted under subsection (b), the Secretary shall designate areas in which the project will operate.

(2) APPOINTMENT OF AREA ADVISORY COMMITTEE.—Upon the designation of an area for inclusion in the project, the Secretary shall appoint an area advisory committee, composed of representatives of health plans, providers, and medicare beneficiaries in the area, to advise the Secretary concerning how the project will actually be implemented in the area. Such advice may include advice concerning the marketing and pricing of plans in the area and other salient factors relating.

(d) MONITORING AND REPORT.—

(1) MONITORING IMPACT.—Taking into consideration the recommendations of the general advisory committee (appointed under subsection (b)), the Secretary shall closely monitor the impact of projects in areas on the price and quality of, and access to, medicare covered services, choice of health plan, changes in enrollment, and other relevant factors.

(2) REPORT.—The Secretary shall periodically report to Congress on the progress under the project under this section.

(e) WAIVER AUTHORITY.—The Secretary of Health and Human Services may waive such requirements of section 1876 (and such requirements of part C of title XVIII, as amended by chapter 1), of the Social Security Act as may be necessary for the purposes of carrying out the project.

CHAPTER 5—TAX TREATMENT OF HOSPITALS PARTICIPATING IN PROVIDER-SPONSORED ORGANIZATIONS

SEC. 10041. TAX TREATMENT OF HOSPITALS WHICH PARTICIPATE IN PROVIDER-SPONSORED ORGANIZATIONS.

(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) TREATMENT OF HOSPITALS PARTICIPATING IN PROVIDER-SPONSORED ORGANIZATIONS.—An organization shall not fail to be treated as organized and operated exclusively for a charitable purpose for purposes of subsection (c)(3) solely because a hospital which is owned and operated by such organization participates in a provider-sponsored organization (as defined in section 1853(e) of the Social Security Act), whether or not the provider-sponsored organization is exempt from tax. For purposes of subsection (c)(3), any person with a material financial interest in such a provider-sponsored organization shall be treated as a private shareholder or individual with respect to the hospital."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Subtitle B—Prevention Initiatives

SEC. 10101. SCREENING MAMMOGRAPHY.

(a) PROVIDING ANNUAL SCREENING MAMMOGRAPHY FOR WOMEN OVER AGE 39.—Section 1834(c)(2)(A) (42 U.S.C. 1395m(c)(2)(A)) is amended—

(1) in clause (iii), to read as follows:

"(iii) In the case of a woman over 39 years of age, payment may not be made under this part for screening mammography performed within 11 months following the month in which a previous screening mammography was performed."; and

(2) by striking clauses (iv) and (v).

(b) WAIVER OF DEDUCTIBLE.—The first sentence of section 1833(b) (42 U.S.C. 1395l(b)) is amended—

(1) by striking "and" before "(4)", and

(2) by inserting before the period at the end the following: ", and (5) such deductible shall not apply with respect to screening mammography (as described in section 1861(jj))".

(c) CONFORMING AMENDMENT.—Section 1834(c)(1)(C) of such Act (42 U.S.C. 1395m(c)(1)(C)) is amended by striking ", subject to the deductible established under section 1833(b),".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

SEC. 10102. SCREENING PAP SMEAR AND PELVIC EXAMS.

(a) COVERAGE OF PELVIC EXAM; INCREASING FREQUENCY OF COVERAGE OF PAP SMEAR.—Section 1861(nn) (42 U.S.C. 1395x(nn)) is amended—

(1) in the heading, by striking "Smear" and inserting "Smear; Screening Pelvic Exam";

(2) by inserting "or vaginal" after "cervical" each place it appears;

(3) by striking "(nn)" and inserting "(nn)(1)";

(4) by striking "3 years" and all that follows and inserting "3 years, or during the preceding year in the case of a woman described in paragraph (3)."; and

(5) by adding at the end the following new paragraphs:

"(2) The term 'screening pelvic exam' means an pelvic examination provided to a woman if the woman involved has not had such an examination during the preceding 3 years, or during the preceding year in the case of a woman described in paragraph (3), and includes a clinical breast examination.

"(3) A woman described in this paragraph is a woman who—

"(A) is of childbearing age and has not had a test described in this subsection during each of the preceding 3 years that did not indicate the presence of cervical or vaginal cancer; or

"(B) is at high risk of developing cervical or vaginal cancer (as determined pursuant to factors identified by the Secretary).".

(b) WAIVER OF DEDUCTIBLE.—The first sentence of section 1833(b) (42 U.S.C. 1395l(b)), as amended by section 10101(b), is amended—

(1) by striking "and" before "(5)", and

(2) by inserting before the period at the end the following: ", and (6) such deductible shall not apply with respect to screening pap smear and screening pelvic exam (as described in section 1861(nn))".

(c) CONFORMING AMENDMENTS.—Sections 1861(s)(14) and 1862(a)(1)(F) (42 U.S.C.

1395x(s)(14), 1395y(a)(1)(F)) are each amended by inserting "and screening pelvic exam" after "screening pap smear".

(d) PAYMENT UNDER PHYSICIAN FEE SCHEDULE.—Section 1848(j)(3)(42 U.S.C. 1395w-4(j)(3)) is amended by striking "and (4)" and inserting "(4) and (14) (with respect to services described in section 1861(nn)(2))".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

SEC. 10103. PROSTATE CANCER SCREENING TESTS.

(a) COVERAGE.—Section 1861 (42 U.S.C. 1395x) is amended—

(1) in subsection (s)(2)—

(A) by striking "and" at the end of subparagraphs (N) and (O), and

(B) by inserting after subparagraph (O) the following new subparagraph:

"(P) prostate cancer screening tests (as defined in subsection (oo)); and"; and

(2) by adding at the end the following new subsection:

"Prostate Cancer Screening Tests

"(oo)(1) The term 'prostate cancer screening test' means a test that consists of any (or all) of the procedures described in paragraph (2) provided for the purpose of early detection of prostate cancer to a man over 50 years of age who has not had such a test during the preceding year.

"(2) The procedures described in this paragraph are as follows:

"(A) A digital rectal examination.

"(B) A prostate-specific antigen blood test.

"(C) For years beginning after 2001, such other procedures as the Secretary finds appropriate for the purpose of early detection of prostate cancer, taking into account changes in technology and standards of medical practice, availability, effectiveness, costs, and such other factors as the Secretary considers appropriate.".

(b) PAYMENT FOR PROSTATE-SPECIFIC ANTIGEN BLOOD TEST UNDER CLINICAL DIAGNOSTIC LABORATORY TEST FEE SCHEDULES.—Section 1833(h)(1)(A) (42 U.S.C. 1395l(h)(1)(A)) is amended by inserting after "laboratory tests" the following: "(including prostate cancer screening tests under section 1861(oo) consisting of prostate-specific antigen blood tests)".

(c) CONFORMING AMENDMENT.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (E), by striking "and" at the end,

(B) in subparagraph (F), by striking the semicolon at the end and inserting ", and", and

(C) by adding at the end the following new subparagraph:

"(G) in the case of prostate cancer screening tests (as defined in section 1861(oo)), which are performed more frequently than is covered under such section;"; and

(2) in paragraph (7), by striking "paragraph (1)(B) or under paragraph (1)(F)" and inserting "subparagraphs (B), (F), or (G) of paragraph (1)".

(d) PAYMENT UNDER PHYSICIAN FEE SCHEDULE.—Section 1848(j)(3)(42 U.S.C. 1395w-4(j)(3)), as amended by section 10102, is amended by inserting ", (2)(P) (with respect to services described in subparagraphs (A) and (C) of section 1861(oo)" after "(2)(G)"

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

SEC. 10104. COVERAGE OF COLORECTAL SCREENING.

(a) COVERAGE.—

(1) IN GENERAL.—Section 1861 (42 U.S.C. 1395x), as amended by section 10103(a), is amended—

(A) in subsection (s)(2)—

(i) by striking "and" at the end of subparagraph (P);

(ii) by adding "and" at the end of subparagraph (Q); and

(iii) by adding at the end the following new subparagraph:

"(R) colorectal cancer screening tests (as defined in subsection (pp)); and"; and

(B) by adding at the end the following new subsection:

"Colorectal Cancer Screening Tests

"(pp)(1) The term 'colorectal cancer screening test' means any of the following procedures furnished to an individual for the purpose of early detection of colorectal cancer:

"(A) Screening fecal-occult blood test.

"(B) Screening flexible sigmoidoscopy.

"(C) In the case of an individual at high risk for colorectal cancer, screening colonoscopy.

"(D) Screening barium enema, if found by the Secretary to be an appropriate alternative to screening flexible sigmoidoscopy under subparagraph (B) or screening colonoscopy under subparagraph (C).

"(E) For years beginning after 2002, such other procedures as the Secretary finds appropriate for the purpose of early detection of colorectal cancer, taking into account changes in technology and standards of medical practice, availability, effectiveness, costs, and such other factors as the Secretary considers appropriate.

"(2) In paragraph (1)(C), an 'individual at high risk for colorectal cancer' is an individual who, because of family history, prior experience of cancer or precursor neoplastic polyps, a history of chronic digestive disease condition (including inflammatory bowel disease, Crohn's Disease, or ulcerative colitis), the presence of any appropriate recognized gene markers for colorectal cancer, or other predisposing factors, faces a high risk for colorectal cancer.".

(2) DEADLINE FOR DECISION ON COVERAGE OF SCREENING BARIUM ENEMA.—Not later than 2 years after the date of the enactment of this section, the Secretary of Health and Human Services shall issue and publish a determination on the treatment of screening barium enema as a colorectal cancer screening test under section 1861(pp) (as added by subparagraph (B)) as an alternative procedure to a screening flexible sigmoidoscopy or screening colonoscopy.

(b) FREQUENCY AND PAYMENT LIMITS.—

(1) IN GENERAL.—Section 1834 (42 U.S.C. 1395m) is amended by inserting after subsection (c) the following new subsection:

"(d) FREQUENCY AND PAYMENT LIMITS FOR COLORECTAL CANCER SCREENING TESTS.—

"(1) SCREENING FECAL-OCCULT BLOOD TESTS.—

"(A) PAYMENT LIMIT.—In establishing fee schedules under section 1833(h) with respect to colorectal cancer screening tests consisting of screening fecal-occult blood tests, except as provided by the Secretary under paragraph (4)(A), the payment amount established for tests performed—

"(i) in 1998 shall not exceed $5; and

"(ii) in a subsequent year, shall not exceed the limit on the payment amount established under this subsection for such tests for the preceding year, adjusted by the applicable adjustment under section 1833(h) for tests performed in such year.

"(B) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (4)(B), no payment may be made under this part for colorectal cancer screening test consisting of a screening fecal-occult blood test—

"(i) if the individual is under 50 years of age; or

"(ii) if the test is performed within the 11 months after a previous screening fecal-occult blood test.

"(2) SCREENING FLEXIBLE SIGMOIDOSCOPIES.—

"(A) FEE SCHEDULE.—The Secretary shall establish a payment amount under section 1848 with respect to colorectal cancer screening tests consisting of screening flexible sigmoidoscopies that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

"(B) PAYMENT LIMIT.—In the case of screening flexible sigmoidoscopy services—

"(i) the payment amount may not exceed such amount as the Secretary specifies, based upon the rates recognized under this part for diagnostic flexible sigmoidoscopy services; and

"(ii) that, in accordance with regulations, may be performed in an ambulatory surgical center and for which the Secretary permits ambulatory surgical center payments under this part and that are performed in an ambulatory surgical center or hospital outpatient department, the payment amount under this part may not exceed the lesser of (I) the payment rate that would apply to such services if they were performed in a hospital outpatient department, or (II) the payment rate that would apply to such services if they were performed in an ambulatory surgical center.

"(C) SPECIAL RULE FOR DETECTED LESIONS.—If during the course of such screening flexible sigmoidoscopy, a lesion or growth is detected which results in a biopsy or removal of the lesion or growth, payment under this part shall not be made for the screening flexible sigmoidoscopy but shall be made for the procedure classified as a flexible sigmoidoscopy with such biopsy or removal.

"(D) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (4)(B), no payment may be made under this part for a colorectal cancer screening test consisting of a screening flexible sigmoidoscopy—

"(i) if the individual is under 50 years of age; or

"(ii) if the procedure is performed within the 47 months after a previous screening flexible sigmoidoscopy.

"(3) SCREENING COLONOSCOPY FOR INDIVIDUALS AT HIGH RISK FOR COLORECTAL CANCER.—

"(A) FEE SCHEDULE.—The Secretary shall establish a payment amount under section 1848 with respect to colorectal cancer screening test consisting of a screening colonoscopy for individuals at high risk for colorectal cancer (as defined in section 1861(pp)(2)) that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

"(B) PAYMENT LIMIT.—In the case of screening colonoscopy services—

"(i) the payment amount may not exceed such amount as the Secretary specifies, based upon the rates recognized under this part for diagnostic colonoscopy services; and

"(ii) that are performed in an ambulatory surgical center or hospital outpatient department, the payment amount under this part may not exceed the lesser of (I) the payment rate that would apply to such services if they were performed in a hospital outpatient department, or (II) the payment rate

that would apply to such services if they were performed in an ambulatory surgical center.

"(C) SPECIAL RULE FOR DETECTED LESIONS.—If during the course of such screening colonoscopy, a lesion or growth is detected which results in a biopsy or removal of the lesion or growth, payment under this part shall not be made for the screening colonoscopy but shall be made for the procedure classified as a colonoscopy with such biopsy or removal.

"(D) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (4)(B), no payment may be made under this part for a colorectal cancer screening test consisting of a screening colonoscopy for individuals at high risk for colorectal cancer if the procedure is performed within the 23 months after a previous screening colonoscopy.

"(4) REDUCTIONS IN PAYMENT LIMIT AND REVISION OF FREQUENCY.—

"(A) REDUCTIONS IN PAYMENT LIMIT FOR SCREENING FECAL-OCCULT BLOOD TESTS.—The Secretary shall review from time to time the appropriateness of the amount of the payment limit established for screening fecal-occult blood tests under paragraph (1)(A). The Secretary may, with respect to tests performed in a year after 2000, reduce the amount of such limit as it applies nationally or in any area to the amount that the Secretary estimates is required to assure that such tests of an appropriate quality are readily and conveniently available during the year.

"(B) REVISION OF FREQUENCY.—

"(i) REVIEW.—The Secretary shall review periodically the appropriate frequency for performing colorectal cancer screening tests based on age and such other factors as the Secretary believes to be pertinent.

"(ii) REVISION OF FREQUENCY.—The Secretary, taking into consideration the review made under clause (i), may revise from time to time the frequency with which such tests may be paid for under this subsection, but no such revision shall apply to tests performed before January 1, 2001.

"(5) LIMITING CHARGES OF NONPARTICIPATING PHYSICIANS.—

"(A) IN GENERAL.—In the case of a colorectal cancer screening test consisting of a screening flexible sigmoidoscopy or a screening colonoscopy provided to an individual at high risk for colorectal cancer for which payment may be made under this part, if a nonparticipating physician provides the procedure to an individual enrolled under this part, the physician may not charge the individual more than the limiting charge (as defined in section 1848(g)(2)).

"(B) ENFORCEMENT.—If a physician or supplier knowing and willfully imposes a charge in violation of subparagraph (A), the Secretary may apply sanctions against such physician or supplier in accordance with section 1842(j)(2).".

(2) SPECIAL RULE FOR SCREENING BARIUM ENEMA.—If the Secretary of Health and Human Services issues a determination under subsection (a)(2) that screening barium enema should be covered as a colorectal cancer screening test under section 1861(pp) (as added by subsection (a)(1)(B)), the Secretary shall establish frequency limits (including revisions of frequency limits) for such procedure consistent with the frequency limits for other colorectal cancer screening tests under section 1834(d) (as added by subsection (b)(1)), and shall establish payment limits (including limits on charges of nonparticipating physicians) for such procedure consistent with the payment limits under part B of title XVIII for diagnostic barium enema procedures.

(c) CONFORMING AMENDMENTS.—(1) Paragraphs (1)(D) and (2)(D) of section 1833(a) (42 U.S.C. 1395l(a)) are each amended by inserting "or section 1834(d)(1)" after "subsection (h)(1)".

(2) Section 1833(h)(1)(A) (42 U.S.C. 1395l(h)(1)(A)) is amended by striking "The Secretary" and inserting "Subject to paragraphs (1) and (4)(A) of section 1834(d), the Secretary".

(3) Clauses (i) and (ii) of section 1848(a)(2)(A) (42 U.S.C. 1395w-4(a)(2)(A)) are each amended by inserting after "a service" the following: "(other than a colorectal cancer screening test consisting of a screening colonoscopy provided to an individual at high risk for colorectal cancer or a screening flexible sigmoidoscopy)".

(4) Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 10103(c), is amended—

(A) in paragraph (1)—

(i) in subparagraph (F), by striking "and" at the end,

(ii) in subparagraph (G), by striking the semicolon at the end and inserting ", and", and

(iii) by adding at the end the following new subparagraph:

"(H) in the case of colorectal cancer screening tests, which are performed more frequently than is covered under section 1834(d);"; and

(B) in paragraph (7), by striking "or (G)" and inserting "(G), or (H)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

SEC. 10105. DIABETES SCREENING TESTS.

(a) COVERAGE OF DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES.—

(1) IN GENERAL.—Section 1861 (42 U.S.C. 1395x), as amended by sections 10103(a) and 10104(a), is amended—

(A) in subsection (s)(2)—

(i) by striking "and" at the end of subparagraph (Q);

(ii) by adding "and" at the end of subparagraph (R); and

(iii) by adding at the end the following new subparagraph:

"(S) diabetes outpatient self-management training services (as defined in subsection (qq)); and"; and

(B) by adding at the end the following new subsection:

"Diabetes Outpatient Self-Management Training Services

"(qq)(1) The term 'diabetes outpatient self-management training services' means educational and training services furnished to an individual with diabetes by a certified provider (as described in paragraph (2)(A)) in an outpatient setting by an individual or entity who meets the quality standards described in paragraph (2)(B), but only if the physician who is managing the individual's diabetic condition certifies that such services are needed under a comprehensive plan of care related to the individual's diabetic condition to provide the individual with necessary skills and knowledge (including skills related to the self-administration of injectable drugs) to participate in the management of the individual's condition.

"(2) In paragraph (1)—

"(A) a 'certified provider' is a physician, or other individual or entity designated by the Secretary, that, in addition to providing diabetes outpatient self-management training services, provides other items or services for which payment may be made under this title; and

"(B) a physician, or such other individual or entity, meets the quality standards described in this paragraph if the physician, or individual or entity, meets quality standards established by the Secretary, except that the physician or other individual or entity shall be deemed to have met such standards if the physician or other individual or entity meets applicable standards originally established by the National Diabetes Advisory Board and subsequently revised by organizations who participated in the establishment of standards by such Board, or is recognized by an organization that represents individuals (including individuals under this title) with diabetes as meeting standards for furnishing the services.".

(2) PAYMENT UNDER PHYSICIAN FEE SCHEDULE.—Section 1848(j)(3)(42 U.S.C. 1395w-4(j)(3)) as amended in sections 10102 and 10103, is amended by inserting "(2)(S)," before "(3),".

(3) CONSULTATION WITH ORGANIZATIONS IN ESTABLISHING PAYMENT AMOUNTS FOR SERVICES PROVIDED BY PHYSICIANS.—In establishing payment amounts under section 1848 of the Social Security Act for physicians' services consisting of diabetes outpatient self-management training services, the Secretary of Health and Human Services shall consult with appropriate organizations, including such organizations representing individuals or medicare beneficiaries with diabetes, in determining the relative value for such services under section 1848(c)(2) of such Act.

(b) BLOOD-TESTING STRIPS FOR INDIVIDUALS WITH DIABETES.—

(1) INCLUDING STRIPS AND MONITORS AS DURABLE MEDICAL EQUIPMENT.—The first sentence of section 1861(n) (42 U.S.C. 1395x(n)) is amended by inserting before the semicolon the following: ", and includes blood-testing strips and blood glucose monitors for individuals with diabetes without regard to whether the individual has Type I or Type II diabetes or to the individual's use of insulin (as determined under standards established by the Secretary in consultation with the appropriate organizations)".

(2) 10 PERCENT REDUCTION IN PAYMENTS FOR TESTING STRIPS.—Section 1834(a)(2)(B)(iv) (42 U.S.C. 1395m(a)(2)(B)(iv)) is amended by adding before the period the following: "(reduced by 10 percent, in the case of a blood glucose testing strip furnished after 1997 for an individual with diabetes)".

(c) ESTABLISHMENT OF OUTCOME MEASURES FOR BENEFICIARIES WITH DIABETES.—

(1) IN GENERAL.—The Secretary of Health and Human Services, in consultation with appropriate organizations, shall establish outcome measures, including glysolated hemoglobin (past 90-day average blood sugar levels), for purposes of evaluating the improvement of the health status of medicare beneficiaries with diabetes mellitus.

(2) RECOMMENDATIONS FOR MODIFICATIONS TO SCREENING BENEFITS.—Taking into account information on the health status of medicare beneficiaries with diabetes mellitus as measured under the outcome measures established under subparagraph (A), the Secretary shall from time to time submit recommendations to Congress regarding modifications to the coverage of services for such beneficiaries under the medicare program.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

SEC. 10106. STANDARDIZATION OF MEDICARE COVERAGE OF BONE MASS MEASUREMENTS.

(a) IN GENERAL.—Section 1861 (42 U.S.C. 1395x), as amended by sections 10103(a), 10104(a), 10105(a), is amended—

(1) in subsection (s)—

(A) in paragraph (12)(C), by striking "and" at the end,

(B) by striking the period at the end of paragraph (14) and inserting "; and",

(C) by redesignating paragraphs (15) and (16) as paragraphs (16) and (17), respectively, and

(D) by inserting after paragraph (14) the following new paragraph:

"(15) bone mass measurement (as defined in subsection (rr)).''; and

(2) by inserting after subsection (qq) the following new subsection:

"Bone Mass Measurement

"(rr)(1) The term 'bone mass measurement' means a radiologic or radioisotopic procedure or other procedure approved by the Food and Drug Administration performed on a qualified individual (as defined in paragraph (2)) for the purpose of identifying bone mass or detecting bone loss or determining bone quality, and includes a physician's interpretation of the results of the procedure.

"(2) For purposes of this subsection, the term 'qualified individual' means an individual who is (in accordance with regulations prescribed by the Secretary)—

"(A) an estrogen-deficient woman at clinical risk for osteoporosis;

"(B) an individual with vertebral abnormalities;

"(C) an individual receiving long-term glucocorticoid steroid therapy;

"(D) an individual with primary hyperparathyroidism; or

"(E) an individual being monitored to assess the response to or efficacy of an approved osteoporosis drug therapy.

"(3) The Secretary shall establish such standards regarding the frequency with which a qualified individual shall be eligible to be provided benefits for bone mass measurement under this title.''.

(b) PAYMENT UNDER PHYSICIAN FEE SCHEDULE.—Section 1848(j)(3) (42 U.S.C. 1395w-4(j)(3)), as amended by sections 10102, 10103, and 10105, is amended—

(1) by striking "(4) and (14)" and inserting "(4), (14)" and

(2) by inserting " and (15)" after "1861(nn)(2))".

(c) CONFORMING AMENDMENTS.—Sections 1864(a), 1902(a)(9)(C), and 1915(a)(1)(B)(ii)(I) (42 U.S.C. 1395aa(a), 1396a(a)(9)(C), and 1396n(a)(1)(B)(ii)(I)) are amended by striking "paragraphs (15) and (16)" each place it appears and inserting "paragraphs (16) and (17)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to bone mass measurements performed on or after July 1, 1998.

SEC. 10107. VACCINES OUTREACH EXPANSION.

(a) EXTENSION OF INFLUENZA AND PNEUMOCOCCAL VACCINATION CAMPAIGN.—In order to increase utilization of pneumococcal and influenza vaccines in medicare beneficiaries, the Influenza and Pneumococcal Vaccination Campaign carried out by the Health Care Financing Administration in conjunction with the Centers for Disease Control and Prevention and the National Coalition for Adult Immunization, is extended until the end of fiscal year 2002.

(b) AUTHORIZATION OF APPROPRIATION.—There are hereby authorized to be appropriated for each of fiscal years 1998 through 2002, $8,000,000 for the Campaign described in subsection (a). Of the amount so authorized to be appropriated in each fiscal year, 60 percent of the amount so appropriated shall be payable from the Federal Hospital Insurance Trust Fund, and 40 percent shall be payable from the Federal Supplementary Medical Insurance Trust Fund.

SEC. 10108. STUDY ON PREVENTIVE BENEFITS.

(a) STUDY.—The Secretary of Health and Human Services shall request the National Academy of Sciences, in conjunction with the United States Preventive Services Task Force, to analyze the expansion or modification of preventive benefits provided to medicare beneficiaries under title XVIII of the Social Security Act. The analysis shall consider both the short term and long term benefits, and costs to the medicare program, of such expansion or modification,

(b) REPORT.—

(1) INITIAL REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report on the findings of the analysis conducted under subsection (a) to the Committee on Ways and Means and the Committee on Commerce of the House of Representatives and the Committee on Finance of the Senate.

(2) CONTENTS.—Such report shall include specific findings with respect to coverage of the following preventive benefits:

(A) Nutrition therapy, including parenteral and enteral nutrition.

(B) Medically necessary dental care.

(C) Routine patient care costs for beneficiaries enrolled in approved clinical trial programs.

(D) Elimination of time limitation for coverage of immunosuppressive drugs for transplant patients.

(3) FUNDING.—From funds appropriated to the Department of Health and Human Services for fiscal years 1998 and 1999, the Secretary shall provide for such funding as may be necessary for the conduct of the analysis by the National Academy of Sciences under this section.

Subtitle C—Rural Initiatives

SEC. 10201. RURAL PRIMARY CARE HOSPITAL PROGRAM.

(a) RURAL PRIMARY CARE HOSPITAL PROGRAM.—Section 1820 (42 U.S.C. 1395i-4) is amended to read as follows:

"MEDICARE RURAL PRIMARY CARE HOSPITAL PROGRAM

"SEC. 1820. (a) STATE DESIGNATION OF FACILITIES.—

"(1) IN GENERAL.—A State may designate one or more facilities as a rural primary care hospital in accordance with paragraph (2).

"(2) CRITERIA FOR DESIGNATION AS RURAL PRIMARY CARE HOSPITAL.—A State may designate a facility as a rural primary care hospital if the facility—

"(A) is a nonprofit or public hospital, and 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 a distance that corresponds to a travel time of greater than 30 minutes (using the guidelines specified under part IB1(b) of Appendix A to part 5 of title 42, Code of Federal Regulations, as in effect on October 1, 1996), 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 because of local geography or service patterns;

"(B) makes available 24-hour emergency care services;

"(C) provides at any time 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;

"(D) 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 subparagraph (B) 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 subparagraph (C) 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;

"(E) meets the requirements of subparagraph (I) of paragraph (2) of section 1861(aa); and

"(F) has executed and in effect an agreement described in subsection (b)(1).

"(b) AGREEMENTS.—

"(1) IN GENERAL.—Each rural primary care hospital shall have an agreement with respect to each item described in paragraph (2) with at least 1 hospital (as defined in section 1861(e)).

"(2) ITEMS DESCRIBED.—The items described in this paragraph are the following:

"(A) Patient referral and transfer.

"(B) The development and use of communications systems including (where feasible)—

"(i) telemetry systems, and

"(ii) systems for electronic sharing of patient data.

"(C) The provision of emergency and nonemergency transportation between the facility and the hospital.

"(3) CREDENTIALING AND QUALITY ASSURANCE.—Each rural primary care hospital shall have an agreement with respect to credentialing and quality assurance with at least 1—

"(A) hospital,

"(B) peer review organization or equivalent entity, or

"(C) other appropriate and qualified entity identified by the State.

"(c) CERTIFICATION BY THE SECRETARY.—The Secretary shall certify a facility as a rural primary care hospital if the facility—

"(1) is designated as a rural primary care hospital by the State in which it is located; and

"(2) meets such other criteria as the Secretary may require.

"(d) PERMITTING MAINTENANCE OF SWING BEDS.—Nothing in this section shall be construed to prohibit a State from designating or the Secretary from certifying a facility as a rural primary care hospital solely because, at the time the facility applies to the State

for designation as a rural primary care hospital, there is in effect an agreement between the facility and the Secretary under section 1883 under which the facility's inpatient hospital facilities are used for the provision of extended care services, so long as the total number of beds that may be used at any time for the furnishing of either such services or acute care inpatient services does not exceed 25 beds and the number of beds used at any time for acute care inpatient services does not exceed 15 beds. For purposes of the previous sentence, any bed of a unit of the facility that is licensed as a distinct-part skilled nursing facility at the time the facility applies to the State for designation as a rural primary care hospital shall not be counted.

"(e) 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.".

(b) PAYMENT ON A REASONABLE COST BASIS.—

(1) MEDICARE PART A.—Section 1814(l) (42 U.S.C. 1395f(l)) is amended to read as follows:

"(l) PAYMENT FOR INPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—The amount of payment under this part for inpatient rural primary care hospital services is the reasonable costs of the rural primary care hospital in providing such services.".

(2) MEDICARE PART B.—Section 1834(g) (42 U.S.C. 1395m(g)) is amended to read as follows:

"(g) PAYMENT FOR OUTPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—The amount of payment under this part for outpatient rural primary care hospital services is the reasonable costs of the rural primary care hospital in providing such services.".

(c) LENGTHENING MAXIMUM PERIOD OF PERMITTED INPATIENT STAY.—Section 1814(a)(8) (42 U.S.C. 1395f(a)(8)) is amended by striking "72 hours" and inserting "96 hours".

(d) PAYMENT CONTINUED TO DESIGNATED ESSENTIAL ACCESS COMMUNITY HOSPITALS AND DESIGNATED RURAL PRIMARY CARE HOSPITALS.—

(1) ESSENTIAL ACCESS COMMUNITY HOSPITALS.—Section 1886(d)(5)(D) (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(A) in clause (iii)(III), by inserting "as in effect on September 30, 1997" before the period at the end; and

(B) in clause (v), by inserting "as in effect on September 30, 1997" after "1820(i)(1)" and after "1820(g)".

(2) RURAL PRIMARY CARE HOSPITALS.—Section 1861(mm)(1) (42 U.S.C. 1395x(mm)(1)) is amended by striking "1820(i)(2)." and inserting "1820(c), and includes a facility designated by the Secretary under section 1820(i)(2) as in effect on September 30, 1997.".

(3) MEDICAL ASSISTANCE FACILITY.—Any facility that, as of March 1, 1997, operated as a limited service rural hospital under a demonstration described in section 4008(i)(1) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b-1 note) shall be treated as a rural primary care hospital for the purposes of title XVIII of the Social Security Act so long as it continues to meet the requirements of the demonstration protocol relating to staffing, services, quality assurance, and related factors.

(e) CONFORMING AMENDMENT.—Section 1883(a)(1) (42 U.S.C. 1395tt(a)(1)) is amended by inserting "or rural primary care hospital" after "Any hospital".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished in cost reporting periods beginning on or after October 1, 1997.

SEC. 10202. PROHIBITING DENIAL OF REQUEST BY RURAL REFERRAL CENTERS FOR RECLASSIFICATION ON BASIS OF COMPARABILITY OF WAGES.

(a) IN GENERAL.—Section 1886(d)(10)(D) (42 U.S.C. 1395ww(d)(10)(D)) is amended—

(1) by redesignating clause (iii) as clause (iv); and

(2) by inserting after clause (ii) the following new clause:

"(iii) Under the guidelines published by the Secretary under clause (i), in the case of a hospital which has ever been classified by the Secretary as a rural referral center under paragraph (5)(C), the Board may not reject the application of the hospital under this paragraph on the basis of any comparison between the average hourly wage of the hospital and the average hourly wage of hospitals in the area in which it is located.".

(b) CONTINUING TREATMENT OF PREVIOUSLY DESIGNATED CENTERS.—

(1) IN GENERAL.—Any hospital classified as a rural referral center by the Secretary of Health and Human Services under section 1886(d)(5)(C) of the Social Security Act for fiscal year 1991 shall be classified as such a rural referral center for fiscal year 1998 and each subsequent fiscal year.

(2) BUDGET NEUTRALITY.—The provisions of section 1886(d)(8)(D) of the Social Security Act shall apply to reclassifications made pursuant to paragraph (1) in the same manner as such provisions apply to a reclassification under section 1886(d)(10) of such Act.

SEC. 10203. HOSPITAL GEOGRAPHIC RECLASSIFICATION PERMITTED FOR PURPOSES OF DISPROPORTIONATE SHARE PAYMENT ADJUSTMENTS.

(a) IN GENERAL.—Section 1886(d)(10)(C)(i) (42 U.S.C. 1395ww(d)(10)(C)(i)) is amended—

(1) by striking "or" at the end of subclause (I);

(2) by striking the period at the end of subclause (II) and inserting ", or"; and

(3) by inserting after subclause (II) the following:

"(III) eligibility for and amount of additional payment amounts under paragraph (5)(F).".

(b) APPLICABLE GUIDELINES.—Such Board shall apply the guidelines established for reclassification under subclause (I) of section 1886(d)(10)(C)(i) of such Act to reclassification under subclause (III) of such section until the Secretary of Health and Human Services promulgates separate guidelines for reclassification under such subclause (III).

SEC. 10204. MEDICARE-DEPENDENT, SMALL RURAL HOSPITAL PAYMENT EXTENSION.

(a) SPECIAL TREATMENT EXTENDED.—

(1) PAYMENT METHODOLOGY.—Section 1886(d)(5)(G) (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 October 1, 1997, and before October 1, 2001,"; and

(B) in clause (ii)(II), by striking "October 1, 1994," and inserting "October 1, 1994, or beginning on or after October 1, 1997, and before October 1, 2001,".

(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 October 1, 1997, and before October 1, 2001,";

(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 after clause (iii) the following new clause:

"(iv) with respect to discharges occurring during fiscal year 1998 through fiscal year 2000, 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 1998, fiscal year 1999, or fiscal year 2000".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to discharges occurring on or after October 1, 1997.

SEC. 10205. GEOGRAPHIC RECLASSIFICATION FOR CERTAIN DISPROPORTIONATELY LARGE HOSPITALS.

(a) NEW GUIDELINES FOR RECLASSIFICATION.—Notwithstanding the guidelines published under subparagraph (D)(i)(I) of section 1886(d)(10) of the Social Security Act (42 U.S.C. 1395ww(d)(10)), the Secretary of Health and Human Services shall publish and use alternative guidelines under which a hospital described in subsection (b) qualifies for geographic reclassification under such section for a fiscal year beginning with fiscal year 1998.

(b) HOSPITALS COVERED.—A hospital described in this subsection is a hospital that demonstrates that—

(1) the average hourly wage paid by the hospital is not less than 108 percent of the average hourly wage paid by all other hospitals located in the Metropolitan Statistical Area (or the New England County Metropolitan Area) in which the hospital is located; and

(2) not less than 40 percent of the adjusted uninflated wages paid by all hospitals located in such Area is attributable to wages paid by the hospital.

SEC. 10206. FLOOR ON AREA WAGE INDEX.

(a) IN GENERAL.—For purposes of section 1886(d)(3)(E) of the Social Security Act for discharges occurring on or after October 1, 1997, the area wage index applicable under such section to any hospital which is not located in a rural area (as defined in section 1886(d)(2)(D) of such Act) may not be less than the area wage indices applicable under such section to hospitals located in rural areas in the State in which the hospital is located.

(b) IMPLEMENTATION.—The Secretary of Health and Human Services shall adjust the area wage indices referred to in subsection (a) for hospitals not described in such subsection in a manner which assures that the aggregate payments made under section 1886(d) of the Social Security Act in a fiscal year for the operating costs of inpatient hospital services are not greater or less than those which would have been made in the year if this section did not apply.

SEC. 10207. INFORMATICS, TELEMEDICINE, AND EDUCATION DEMONSTRATION PROJECT.

(a) PURPOSE AND AUTHORIZATION.—

(1) IN GENERAL.—Not later than 9 months after the date of enactment of this section, the Secretary of Health and Human Services shall provide for a demonstration project described in paragraph (2).

(2) DESCRIPTION OF PROJECT.—

(A) IN GENERAL.—The demonstration project described in this paragraph is a single demonstration project to use eligible health care provider telemedicine networks to apply high-capacity computing and advanced networks to improve primary care

(and prevent health care complications) to medicare beneficiaries with diabetes mellitus who are residents of medically underserved rural areas or residents of medically underserved inner-city areas.

(B) MEDICALLY UNDERSERVED DEFINED.—As used in this paragraph, the term "medically underserved" has the meaning given such term in section 330(b)(3) of the Public Health Service Act (42 U.S.C. 254b(b)(3)).

(3) WAIVER.—The Secretary shall waive such provisions of title XVIII of the Social Security Act as may be necessary to provide for payment for services under the project in accordance with subsection (d).

(4) DURATION OF PROJECT.—The project shall be conducted over a 4-year period.

(b) OBJECTIVES OF PROJECT.—The objectives of the project include the following:

(1) Improving patient access to and compliance with appropriate care guidelines for individuals with diabetes mellitus through direct telecommunications link with information networks in order to improve patient quality-of-life and reduce overall health care costs.

(2) Developing a curriculum to train, and providing standards for credentialing and licensure of, health professionals (particularly primary care health professionals) in the use of medical informatics and telecommunications.

(3) Demonstrating the application of advanced technologies, such as video-conferencing from a patient's home, remote monitoring of a patient's medical condition, interventional informatics, and applying individualized, automated care guidelines, to assist primary care providers in assisting patients with diabetes in a home setting.

(4) Application of medical informatics to residents with limited English language skills.

(5) Developing standards in the application of telemedicine and medical informatics.

(6) Developing a model for the cost-effective delivery of primary and related care both in a managed care environment and in a fee-for-service environment.

(c) ELIGIBLE HEALTH CARE PROVIDER TELEMEDICINE NETWORK DEFINED.—For purposes of this section, the term "eligible health care provider telemedicine network" means a consortium that includes at least one tertiary care hospital (but no more than 2 such hospitals), at least one medical school, no more than 4 facilities in rural or urban areas, and at least one regional telecommunications provider and that meets the following requirements:

(1) The consortium is located in an area with one of the highest concentrations of medical schools and tertiary care facilities in the United States and has appropriate arrangements (within or outside the consortium) with such schools and facilities, universities, and telecommunications providers, in order to conduct the project.

(2) The consortium submits to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the use to which the consortium would apply any amounts received under the project and the source and amount of non-Federal funds used in the project.

(3) The consortium guarantees that it will be responsible for payment for all costs of the project that are not paid under this section and that the maximum amount of payment that may be made to the consortium under this section shall not exceed the amount specified in subsection (d)(3).

(d) COVERAGE AS MEDICARE PART B SERVICES.—

(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, services related to the treatment or management of (including prevention of complications from) diabetes for medicare beneficiaries furnished under the project shall be considered to be services covered under part B of title XVIII of the Social Security Act.

(2) PAYMENTS.—

(A) IN GENERAL.—Subject to paragraph (3), payment for such services shall be made at a rate of 50 percent of the costs that are reasonable and related to the provision of such services. In computing such costs, the Secretary shall include costs described in subparagraph (B), but may not include costs described in subparagraph (C).

(B) COSTS THAT MAY BE INCLUDED.—The costs described in this subparagraph are the permissible costs (as recognized by the Secretary) for the following:

(i) The acquisition of telemedicine equipment for use in patients' homes (but only in the case of patients located in medically underserved areas).

(ii) Curriculum development and training of health professionals in medical informatics and telemedicine.

(iii) Payment of telecommunications costs (including salaries and maintenance of equipment), including costs of telecommunications between patients' homes and the eligible network and between the network and other entities under the arrangements described in subsection (c)(1).

(iv) Payments to practitioners and providers under the medicare programs.

(C) COSTS NOT INCLUDED.—The costs described in this subparagraph are costs for any of the following:

(i) The purchase or installation of transmission equipment (other than such equipment used by health professionals to deliver medical informatics services under the project).

(ii) The establishment or operation of a telecommunications common carrier network.

(iii) Construction (except for minor renovations related to the installation of reimbursable equipment) or the acquisition or building of real property.

(3) LIMITATION.—The total amount of the payments that may be made under this section shall not exceed $30,000,000.

(4) LIMITATION ON COST-SHARING.—The project may not impose cost sharing on a medicare beneficiary for the receipt of services under the project in excess of 20 percent of the recognized costs of the project attributable to such services.

(e) REPORTS.—The Secretary shall submit to the Committees on Ways and Means and Commerce of the House of Representatives and the Committee on Finance of the Senate interim reports on the project and a final report on the project within 6 months after the conclusion of the project. The final report shall include an evaluation of the impact of the use of telemedicine and medical informatics on improving access of medicare beneficiaries to health care services, on reducing the costs of such services, and on improving the quality of life of such beneficiaries.

(f) DEFINITIONS.—For purposes of this section:

(1) INTERVENTIONAL INFORMATICS.—The term "interventional informatics" means using information technology and virtual reality technology to intervene in patient care.

(2) MEDICAL INFORMATICS.—The term "medical informatics" means the storage, retrieval, and use of biomedical and related information for problem solving and decision-making through computing and communications technologies.

(3) PROJECT.—The term "project" means the demonstration project under this section.

Subtitle D—Anti-Fraud and Abuse Provisions

SEC. 10301. PERMANENT EXCLUSION FOR THOSE CONVICTED OF 3 HEALTH CARE RELATED CRIMES.

Section 1128(c)(3) (42 U.S.C. 1320a-7(c)(3)) is amended—

(1) in subparagraph (A), by inserting "or in the case described in subparagraph (G)" after "subsection (b)(12)";

(2) in subparagraphs (B) and (D), by striking "In the case" and inserting "Subject to subparagraph (G), in the case"; and

(3) by adding at the end the following new subparagraph:

"(G) In the case of an exclusion of an individual under subsection (a) based on a conviction occurring on or after the date of the enactment of this subparagraph, if the individual has (before, on, or after such date and before the date of the conviction for which the exclusion is imposed) been convicted—

"(i) on one previous occasion of one or more offenses for which an exclusion may be effected under such subsection, the period of the exclusion shall be not less than 10 years, or

"(ii) on 2 or more previous occasions of one or more offenses for which an exclusion may be effected under such subsection, the period of the exclusion shall be permanent.".

SEC. 10302. AUTHORITY TO REFUSE TO ENTER INTO MEDICARE AGREEMENTS WITH INDIVIDUALS OR ENTITIES CONVICTED OF FELONIES.

(a) MEDICARE PART A.—Section 1866(b)(2) (42 U.S.C. 1395cc(b)(2)) is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting ", or"; and

(3) by adding after subparagraph (C) the following new subparagraph:

"(D) has ascertained that the provider has been convicted of a felony under Federal or State law for an offense which the Secretary determines is inconsistent with the best interests of program beneficiaries.".

(b) MEDICARE PART B.—Section 1842 (42 U.S.C. 1395u) is amended by adding after subsection (r) the following new subsection:

"(s) The Secretary may refuse to enter into an agreement with a physician or supplier under subsection (h) or may terminate or refuse to renew such agreement, in the event that such physician or supplier has been convicted of a felony under Federal or State law for an offense which the Secretary determines is inconsistent with the best interests of program beneficiaries.".

(c) MEDICAID.—For provisions amending title XIX of the Social Security Act to provide similar treatment under the medicaid program, see section ____.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and apply to the entry and renewal of contracts on or after such date.

SEC. 10303. INCLUSION OF TOLL-FREE NUMBER TO REPORT MEDICARE WASTE, FRAUD, AND ABUSE IN EXPLANATION OF BENEFITS FORMS.

(a) IN GENERAL.—Section 1842(h)(7) (42 U.S.C. 1395u(h)(7)) is amended—

(1) by striking "and" at the end of subparagraph (C),

(2) by striking the period at the end of subparagraph (D) and inserting "; and", and

(3) by adding at the end the following new subparagraph:

"(E) a toll-free telephone number maintained by the Inspector General in the Department of Health and Human Services for the receipt of complaints and information about waste, fraud, and abuse in the provision or billing of services under this title.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to explanations of benefits provided on or after such date (not later than January 1, 1999) as the Secretary of Health and Human Services shall provide.

SEC. 10304. LIABILITY OF MEDICARE CARRIERS AND FISCAL INTERMEDIARIES FOR CLAIMS SUBMITTED BY EXCLUDED PROVIDERS.

(a) REIMBURSEMENT TO THE SECRETARY FOR AMOUNTS PAID TO EXCLUDED PROVIDERS.—

(1) REQUIREMENTS FOR FISCAL INTERMEDIARIES.—

(A) IN GENERAL.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

"(m) An agreement with an agency or organization under this section shall require that such agency or organization reimburse the Secretary for any amounts paid by the agency or organization for a service under this title which is furnished, directed, or prescribed by an individual or entity during any period for which the individual or entity is excluded pursuant to section 1128, 1128A, or 1156, from participation in the program under this title, if the amounts are paid after the Secretary notifies the agency or organization of the exclusion.".

(B) CONFORMING AMENDMENT.—Subsection (i) of such section is amended by adding at the end the following new paragraph:

"(4) Nothing in this subsection shall be construed to prohibit reimbursement by an agency or organization under subsection (m).".

(2) REQUIREMENTS FOR CARRIERS.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(A) by striking "and" at the end of subparagraph (I); and

(B) by inserting after subparagraph (I) the following new subparagraph:

"(J) will reimburse the Secretary for any amounts paid by the carrier for an item or service under this part which is furnished, directed, or prescribed by an individual or entity during any period for which the individual or entity is excluded pursuant to section 1128, 1128A, or 1156, from participation in the program under this title, if the amounts are paid after the Secretary notifies the carrier of the exclusion, and".

(3) REFERENCE TO MEDICAID PROVISION.—For provision imposing similar restrictions on States under the medicaid program under title XIX of the Social Security Act, see section ___.

(b) CONFORMING REPEAL OF MANDATORY PAYMENT RULE.—Paragraph (2) of section 1862(e) (42 U.S.C. 1395y(e)) is amended to read as follows:

"(2) No individual or entity may bill (or collect any amount from) any individual for any item or service for which payment is denied under paragraph (1). No person is liable for payment of any amounts billed for such an item or service in violation of the previous sentence.".

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to contracts and agreements entered into, renewed, or extended after the date of the enactment of this Act, but only with respect to claims submitted on or after the later of January 1, 1998, or the date such entry, renewal, or extension becomes effective.

SEC. 10305. EXCLUSION OF ENTITY CONTROLLED BY FAMILY MEMBER OF A SANCTIONED INDIVIDUAL.

(a) IN GENERAL.—Section 1128 (42 U.S.C. 1320a–7) is amended—

(1) in subsection (b)(8)(A)—

(A) by striking "or" at the end of clause (i), and

(B) by striking the dash at the end of clause (ii) and inserting "; or", and

(C) by inserting after clause (ii) the following:

"(iii) who was described in clause (i) but is no longer so described because of a transfer of ownership or control interest, in anticipation of (or following) a conviction, assessment, or exclusion described in subparagraph (B) against the person, to an immediate family member (as defined in subsection (j)(1)) or a member of the household of the person (as defined in subsection (j)(2)) who continues to maintain an interest described in such clause—"; and

(2) by adding after subsection (i) the following new subsection:

"(j) DEFINITION OF IMMEDIATE FAMILY MEMBER AND MEMBER OF HOUSEHOLD.—For purposes of subsection (b)(8)(A)(iii):

"(1) The term 'immediate family member' means, with respect to a person—

"(A) the husband or wife of the person;

"(B) the natural or adoptive parent, child, or sibling of the person;

"(C) the stepparent, stepchild, stepbrother, or stepsister of the person;

"(D) the father-, mother-, daughter-, son-, brother-, or sister-in-law of the person;

"(E) the grandparent or grandchild of the person; and

"(F) the spouse of a grandparent or grandchild of the person.

"(2) The term 'member of the household' means, with respect to an person, any individual sharing a common abode as part of a single family unit with the person, including domestic employees and others who live together as a family unit, but not including a roomer or boarder.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date that is 45 days after the date of the enactment of this Act.

SEC. 10306. IMPOSITION OF CIVIL MONEY PENALTIES.

(a) CIVIL MONEY PENALTIES FOR PERSONS THAT CONTRACT WITH EXCLUDED INDIVIDUALS.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(1) by striking "or" at the end of paragraph (4);

(2) by adding "or" at the end of paragraph (5); and

(3) by adding after paragraph (5) the following new paragraph:

"(6) arranges or contracts (by employment or otherwise) with an individual or entity that the person knows or should know is excluded from participation in a Federal health care program (as defined in section 1128B(f)), for the provision of items or services for which payment may be made under such a program;".

(b) CIVIL MONEY PENALTIES FOR SERVICES ORDERED OR PRESCRIBED BY AN EXCLUDED INDIVIDUAL OR ENTITY.—Section 1128A(a)(1) (42 U.S.C. 1320a–7a(a)(1)) is amended—

(1) in subparagraph (D)—

(A) by inserting ", ordered, or prescribed by such person" after "other item or service furnished";

(B) by inserting "(pursuant to this title or title XVIII)" after "period in which the person was excluded"; and

(C) by striking "pursuant to a determination by the Secretary" and all that follows through "the provisions of section 1842(j)(2)"; and

(D) by striking "or" at the end;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following new subparagraph:

"(E) is for a medical or other item or service ordered or prescribed by a person excluded (pursuant to this title or title XVIII) from the program under which the claim was made, and the person furnishing such item or service knows or should know of such exclusion, or".

(c) EFFECTIVE DATES.—

(1) CONTRACTS WITH EXCLUDED PERSONS.—The amendments made by subsection (a) shall apply to arrangements and contracts entered into after the date of the enactment of this Act.

(2) SERVICES ORDERED OR PRESCRIBED.—The amendments made by subsection (b) shall apply to items and services furnished ordered or prescribed after the date of the enactment of this Act.

SEC. 10307. DISCLOSURE OF INFORMATION AND SURETY BONDS.

(a) DISCLOSURE OF INFORMATION AND SURETY BOND REQUIREMENT FOR SUPPLIERS OF DURABLE MEDICAL EQUIPMENT.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by inserting after paragraph (15) the following new paragraph:

"(16) CONDITIONS FOR ISSUANCE OF PROVIDER NUMBER.—The Secretary shall not provide for the issuance (or renewal) of a provider number for a supplier of durable medical equipment, for purposes of payment under this part for durable medical equipment furnished by the supplier, unless the supplier provides the Secretary on a continuing basis with—

"(A)(i) full and complete information as to the identity of each person with an ownership or control interest (as defined in section 1124(a)(3)) in the supplier or in any subcontractor (as defined by the Secretary in regulations) in which the supplier directly or indirectly has a 5 percent or more ownership interest, and

"(ii) to the extent determined to be feasible under regulations of the Secretary, the name of any disclosing entity (as defined in section 1124(a)(2)) with respect to which a person with such an ownership or control interest in the supplier is a person with such an ownership or control interest in the disclosing entity; and

"(B) a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000.

The Secretary may waive the requirement of a bond under subparagraph (B) in the case of a supplier that provides a comparable surety bond under State law.".

(b) SURETY BOND REQUIREMENT FOR HOME HEALTH AGENCIES.—

(1) IN GENERAL.—Section 1861(o) (42 U.S.C. 1395x(o)) is amended—

(A) in paragraph (7), by inserting "and including providing the Secretary on a continuing basis with a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000" after "financial security of the program", and

(B) by adding at the end the following: "The Secretary may waive the requirement of a bond under paragraph (7) in the case of an agency or organization that provides a comparable surety bond under State law.".

(2) CONFORMING AMENDMENTS.—Section 1861(v)(1)(H) (42 U.S.C. 1395x(v)(1)(H)) is amended—

(A) in clause (i), by striking "the financial security requirement" and inserting "the financial security and surety bond requirements"; and

(B) in clause (ii), by striking "the financial security requirement described in subsection (o)(7) applies" and inserting "the financial security and surety bond requirements described in subsection (o)(7) apply".

(3) REFERENCE TO CURRENT DISCLOSURE REQUIREMENT.—For provision of current law requiring home health agencies to disclose information on ownership and control interests, see section 1124 of the Social Security Act.

(c) AUTHORIZING APPLICATION OF DISCLOSURE AND SURETY BOND REQUIREMENTS TO AMBULANCE SERVICES AND CERTAIN CLINICS.—Section 1834(a)(16) (42 U.S.C. 1395m(a)(16)), as added by subsection (a), is amended by adding at the end the following: "The Secretary, in the Secretary's discretion, may impose the requirements of the previous sentence with respect to some or all classes of suppliers of ambulance services described in section 1861(s)(7) and clinics that furnish medical and other health services (other than physicians' services) under this part.".

(d) APPLICATION TO COMPREHENSIVE OUTPATIENT REHABILITATION FACILITIES (CORFs).—Section 1861(cc)(2) (42 U.S.C. 1395x(cc)(2)) is amended—

(1) in subparagraph (I), by inserting before the period at the end the following: "and providing the Secretary on a continuing basis with a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000", and

(2) by adding after and below subparagraph (I) the following:

"The Secretary may waive the requirement of a bond under subparagraph (I) in the case of a facility that provides a comparable surety bond under State law.".

(e) APPLICATION TO REHABILITATION AGENCIES.—Section 1861(p) (42 U.S.C. 1395x(p)) is amended—

(1) in paragraph (4)(A)(v), by inserting after "as the Secretary may find necessary," the following: "and provides the Secretary, to the extent required by the Secretary, on a continuing basis with a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000,", and

(2) by adding at the end the following: "The Secretary may waive the requirement of a bond under paragraph (4)(A)(v) in the case of a clinic or agency that provides a comparable surety bond under State law.".

(f) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall apply to suppliers of durable medical equipment with respect to such equipment furnished on or after January 1, 1998.

(2) The amendments made by subsection (b) shall apply to home health agencies with respect to services furnished on or after such date. The Secretary of Health and Human Services shall modify participation agreements under section 1866(a)(1) of the Social Security Act with respect to home health agencies to provide for implementation of such amendments on a timely basis.

(3) The amendments made by subsections (c) through (e) shall take effect on the date of the enactment of this Act and may be applied with respect to items and services furnished on or after the date specified in paragraph (1).

SEC. 10308. PROVISION OF CERTAIN IDENTIFICATION NUMBERS.

(a) REQUIREMENTS TO DISCLOSE EMPLOYER IDENTIFICATION NUMBERS (EINS) AND SOCIAL SECURITY ACCOUNT NUMBERS (SSNs).—Section 1124(a)(1) (42 U.S.C. 1320a-3(a)(1)) is amended by inserting before the period at the end the following: "and supply the Secretary with the both the employer identification number (assigned pursuant to section 6109 of the Internal Revenue Code of 1986) and social security account number (assigned under section 205(c)(2)(B)) of the disclosing entity, each person with an ownership or control interest (as defined in subsection (a)(3)), and any subcontractor in which the entity directly or indirectly has a 5 percent or more ownership interest".

(b) OTHER MEDICARE PROVIDERS.—Section 1124A (42 U.S.C. 1320a-3a) is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(3) including the employer identification number (assigned pursuant to section 6109 of the Internal Revenue Code of 1986) and social security account number (assigned under section 205(c)(2)(B)) of the disclosing part B provider and any person, managing employee, or other entity identified or described under paragraph (1) or (2).";

(2) in subsection (c) by inserting "(or, for purposes of subsection (a)(3), any entity receiving payment)" after "on an assignment-related basis".

(c) VERIFICATION BY SOCIAL SECURITY ADMINISTRATION (SSA).—Section 1124A (42 U.S.C. 1320a-3a) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) VERIFICATION.—

"(1) TRANSMITTAL BY HHS.—The Secretary shall transmit—

"(A) to the Commissioner of Social Security information concerning each social security account number (assigned under section 205(c)(2)(B)), and

"(B) to the Secretary of the Treasury information concerning each employer identification number (assigned pursuant to section 6109 of the Internal Revenue Code of 1986),

supplied to the Secretary pursuant to subsection (a)(3) or section 1124(c) to the extent necessary for verification of such information in accordance with paragraph (2).

"(2) VERIFICATION.—The Commissioner of Social Security and the Secretary of the Treasury shall verify the accuracy of, or correct, the information supplied by the Secretary to such official pursuant to paragraph (1), and shall report such verifications or corrections to the Secretary.

"(3) FEES FOR VERIFICATION.—The Secretary shall reimburse the Commissioner and Secretary of the Treasury, at a rate negotiated between the Secretary and such official, for the costs incurred by such official in performing the verification and correction services described in this subsection.".

(d) REPORT.—The Secretary of Health and Human Services shall submit to Congress a report on steps the Secretary has taken to assure the confidentiality of social security account numbers that will be provided to the Secretary under the amendments made by this section.

(e) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to the application of conditions of participation, and entering into and renewal of contracts and agreements, occurring more than 90 days after the date of submission of the report under subsection (d).

(2) The amendments made by subsection (b) shall apply to payment for items and services furnished more than 90 days after the date of submission of such report.

SEC. 10309. ADVISORY OPINIONS REGARDING CERTAIN PHYSICIAN SELF-REFERRAL PROVISIONS.

Section 1877(g) (42 U.S.C. 1395nn(g)) is amended by adding at the end the following new paragraph:

"(6) ADVISORY OPINIONS.—

"(A) IN GENERAL.—The Secretary shall issue written advisory opinions concerning whether a referral relating to designated health services (other than clinical laboratory services) is prohibited under this section.

"(B) BINDING AS TO SECRETARY AND PARTIES INVOLVED.—Each advisory opinion issued by the Secretary shall be binding as to the Secretary and the party or parties requesting the opinion.

"(C) APPLICATION OF CERTAIN PROCEDURES.—The Secretary shall, to the extent practicable, apply the regulations promulgated under section 1128D(b)(5) to the issuance of advisory opinions under this paragraph.

"(D) APPLICABILITY.—This paragraph shall apply to requests for advisory opinions made during the period described in section 1128D(b)(6).".

SEC. 10310. OTHER FRAUD AND ABUSE RELATED PROVISIONS.

(a) REFERENCE CORRECTION.—(1) Section 1128D(b)(2)(D) (42 U.S.C. 1320a-7d(b)(2)(D)), as added by section 205 of the Health Insurance Portability and Accountability Act of 1996, is amended by striking "1128B(b)" and inserting "1128A(b)".

(2) Section 1128E(g)(3)(C) (42 U.S.C. 1320a-7e(g)(3)(C)) is amended by striking "Veterans' Administration" and inserting "Department of Veterans Affairs".

(b) LANGUAGE IN DEFINITION OF CONVICTION.—Section 1128E(g)(5) (42 U.S.C. 1320a-7e(g)(5)), as inserted by section 221(a) of the Health Insurance Portability and Accountability Act of 1996, is amended by striking "paragraph (4)" and inserting "paragraphs (1) through (4)".

(c) IMPLEMENTATION OF EXCLUSIONS.—Section 1128 (42 U.S.C. 1320a-7) is amended—

(1) in subsection (a), by striking "any program under title XVIII and shall direct that the following individuals and entities be excluded from participation in any State health care program (as defined in subsection (h))" and inserting "any Federal health care program (as defined in section 1128B(f))"; and

(2) in subsection (b), by striking "any program under title XVIII and may direct that the following individuals and entities be excluded from participation in any State health care program" and inserting "any Federal health care program (as defined in section 1128B(f))".

(d) SANCTIONS FOR FAILURE TO REPORT.—Section 1128E(b) (42 U.S.C. 1320a-7e(b)), as inserted by section 221(a) of the Health Insurance Portability and Accountability Act of 1996, is amended by adding at the end the following:

"(6) SANCTIONS FOR FAILURE TO REPORT.—

"(A) HEALTH PLANS.—Any health plan that fails to report information on an adverse action required to be reported under this subsection shall be subject to a civil money penalty of not more than $25,000 for each such adverse action not reported. Such penalty shall be imposed and collected in the same manner as civil money penalties under subsection (a) of section 1128A are imposed and collected under that section.

"(B) GOVERNMENTAL AGENCIES.—The Secretary shall provide for a publication of a public report that identifies those Government agencies that have failed to report information on adverse actions as required to be reported under this subsection.".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall be effective as if included in the enactment of the Health Insurance Portability and Accountability Act of 1996.

(2) FEDERAL HEALTH PROGRAM.—The amendments made by subsection (c) shall take effect on the date of the enactment of this Act.

(3) SANCTION FOR FAILURE TO REPORT.—The amendment made by subsection (d) shall apply to failures occurring on or after the date of the enactment of this Act.

Subtitle E—Prospective Payment Systems

CHAPTER 1—PAYMENT UNDER PART A

SEC. 10401. PROSPECTIVE PAYMENT FOR SKILLED NURSING FACILITY SERVICES.

(a) IN GENERAL.—Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

"(e) PROSPECTIVE PAYMENT.—

"(1) PAYMENT PROVISION.—Notwithstanding any other provision of this title, subject to paragraph (7), the amount of the payment for all costs (as defined in paragraph (2)(B)) of covered skilled nursing facility services (as defined in paragraph (2)(A)) for each day of such services furnished—

"(A) in a cost reporting period during the transition period (as defined in paragraph (2)(E)), is equal to the sum of—

"(i) the non-Federal percentage of the facility-specific per diem rate (computed under paragraph (3)), and

"(ii) the Federal percentage of the adjusted Federal per diem rate (determined under paragraph (4)) applicable to the facility; and

"(B) after the transition period is equal to the adjusted Federal per diem rate applicable to the facility.

"(2) DEFINITIONS.—For purposes of this subsection:

"(A) COVERED SKILLED NURSING FACILITY SERVICES.—

"(i) IN GENERAL.—The term 'covered skilled nursing facility services'—

"(I) means post-hospital extended care services as defined in section 1861(i) for which benefits are provided under part A; and

"(II) includes all items and services (other than services described in clause (ii)) for which payment may be made under part B and which are furnished to an individual who is a resident of a skilled nursing facility during the period in which the individual is provided covered post-hospital extended care services.

"(ii) SERVICES EXCLUDED.—Services described in this clause are physicians' services, services described by clauses (i) through (iii) of section 1861(s)(2)(K), certified nurse-midwife services, qualified psychologist services, services of a certified registered nurse anesthetist, items and services described in subparagraphs in (F) and (O) of section 1861(s)(2), and, only with respect to services furnished during 1998, the transportation costs of electrocardiagram equipment for electrocardiogram tests services (HCPCS Code R0076). Services described in this clause do not include any physical, occupational, or speech-language therapy services regardless of whether or not the services are furnished by, or under the supervision of, a physician or other health care professional.

"(B) ALL COSTS.—The term 'all costs' means routine service costs, ancillary costs, and capital-related costs of covered skilled nursing facility services, but does not include costs associated with approved educational activities.

"(C) NON-FEDERAL PERCENTAGE; FEDERAL PERCENTAGE.—For—

"(i) the first cost reporting period (as defined in subparagraph (D)) of a facility, the 'non-Federal percentage' is 75 percent and the 'Federal percentage' is 25 percent;

"(ii) the next cost reporting period of such facility, the 'non-Federal percentage' is 50 percent and the 'Federal percentage' is 50 percent; and

"(iii) the subsequent cost reporting period of such facility, the 'non-Federal percentage' is 25 percent and the 'Federal percentage' is 75 percent.

"(D) FIRST COST REPORTING PERIOD.—The term 'first cost reporting period' means, with respect to a skilled nursing facility, the first cost reporting period of the facility beginning on or after July 1, 1998.

"(E) TRANSITION PERIOD.—

"(i) IN GENERAL.—The term 'transition period' means, with respect to a skilled nursing facility, the 3 cost reporting periods of the facility beginning with the first cost reporting period.

"(ii) TREATMENT OF NEW SKILLED NURSING FACILITIES.—In the case of a skilled nursing facility that does not have a settled cost report for a cost reporting period before July 1, 1998, payment for such services shall be made under this subsection as if all services were furnished after the transition period.

"(3) DETERMINATION OF FACILITY SPECIFIC PER DIEM RATES.—The Secretary shall determine a facility-specific per diem rate for each skilled nursing facility for a cost reporting period as follows:

"(A) DETERMINING BASE PAYMENTS.—The Secretary shall determine, on a per diem basis, the total of—

"(i) the allowable costs of extended care services for the facility for cost reporting periods beginning in 1995 with appropriate adjustments (as determined by the Secretary) to non-settled cost reports, and

"(ii) an estimate of the amounts that would be payable under part B (disregarding any applicable deductibles, coinsurance and copayments) for covered skilled nursing facility services described in paragraph (2)(A)(i)(II) furnished during such period to an individual who is a resident of the facility, regardless of whether or not the payment was made to the facility or to another entity.

"(B) UPDATE TO COST REPORTING PERIOD BEFORE FIRST COST REPORTING PERIOD.—The Secretary shall update the amount determined under subparagraph (A), for each cost reporting period after the cost reporting period described in subparagraph (A)(i) and up to the cost reporting period immediately preceding the first cost reporting period, by the skilled nursing facility historical trend factor.

"(C) UPDATING TO APPLICABLE COST REPORTING PERIOD.—The Secretary shall further update such amount for each cost reporting period beginning with the first cost reporting period and up to and including the cost reporting period involved by a factor equal to the skilled nursing facility market basket percentage increase.

"(4) FEDERAL PER DIEM RATE.—

"(A) DETERMINATION OF HISTORICAL PER DIEM FOR FREESTANDING FACILITIES.—For each freestanding skilled nursing facility that received payments for post-hospital extended care services during a cost reporting period beginning in fiscal year 1995 and that was subject to (and not exempted from) the per diem limits referred to in paragraph (1) or (2) of subsection (a) (and facilities described in subsection (d), if appropriate), the Secretary shall estimate, on a per diem basis for such cost reporting period, the total of—

"(i) the allowable costs of extended care services for the facility for cost reporting periods beginning in 1995 with appropriate adjustments (as determined by the Secretary) to non-settled cost reports, and

"(ii) an estimate of the amounts that would be payable under part B (disregarding any applicable deductibles, coinsurance and copayments) for covered skilled nursing facility services described in paragraph (2)(A)(i)(II) furnished during such period to an individual who is a resident of the facility, regardless of whether or not the payment was made to the facility or to another entity.

"(B) UPDATE TO FISCAL YEAR 1998.—The Secretary shall update the amount determined under subparagraph (A), for each cost reporting period after the cost reporting period described in subparagraph (A)(i) and up to the cost reporting period immediately preceding the first cost reporting period, by the skilled nursing facility historical trend factor for such period.

"(C) COMPUTATION OF STANDARDIZED PER DIEM RATE.—The Secretary shall standardize the amount updated under subparagraph (B) for each facility by—

"(i) adjusting for variations among facility by area in the average facility wage level per diem, and

"(ii) adjusting for variations in case mix per diem among facilities.

"(D) COMPUTATION OF WEIGHTED AVERAGE PER DIEM RATE.—The Secretary shall compute a weighted average per diem rate by computing an average of the standardized amounts computed under subparagraph (C), weighted for each facility by number of days of extended care services furnished during the cost reporting period referred to in subparagraph (A). The Secretary may compute and apply such average separately for facilities located in urban and rural areas (as defined in section 1886(d)(2)(D)).

"(E) UPDATING.—

"(i) FISCAL YEAR 1998.—For fiscal year 1998, the Secretary shall compute for each skilled nursing facility an unadjusted Federal per diem rate equal to the weighted average per diem rate computed under subparagraph (D) and applicable to the facility increased by skilled nursing facility market basket percentage change for the fiscal year involved.

"(ii) SUBSEQUENT FISCAL YEARS.—For each subsequent fiscal year the Secretary shall compute for each skilled nursing facility an unadjusted Federal per diem rate equal to the Federal per diem rate computed under this subparagraph for the previous fiscal year and applicable to the facility increased by the skilled nursing facility market basket percentage change for the fiscal year involved.

"(F) ADJUSTMENT FOR CASE MIX CREEP.—Insofar as the Secretary determines that such adjustments under subparagraph (G)(i) for a previous fiscal year (or estimates that such adjustments for a future fiscal year) did (or are likely to) result in a change in aggregate payments under this subsection during the fiscal year that are a result of changes in the coding or classification of residents that do not reflect real changes in case mix, the Secretary may adjust unadjusted Federal per

diem rates for subsequent years so as to discount the effect of such coding or classification changes.

"(G) APPLICATION TO SPECIFIC FACILITIES.—The Secretary shall compute for each skilled nursing facility for each fiscal year (beginning with fiscal year 1998) an adjusted Federal per diem rate equal to the unadjusted Federal per diem rate determined under subparagraph (E), as adjusted under subparagraph (F), and as further adjusted as follows:

"(i) ADJUSTMENT FOR CASE MIX.—The Secretary shall provide for an appropriate adjustment to account for case mix. Such adjustment shall be based on a resident classification system, established by the Secretary, that accounts for the relative resource utilization of different patient types. The case mix adjustment shall be based on resident assessment data and other data that the Secretary considers appropriate.

"(ii) ADJUSTMENT FOR GEOGRAPHIC VARIATIONS IN LABOR COSTS.—The Secretary shall adjust the portion of such per diem rate attributable to wages and wage-related costs for the area in which the facility is located compared to the national average of such costs using an appropriate wage index as determined by the Secretary. Such adjustment shall be done in a manner that does not result in aggregate payments under this subsection that are greater or less than those that would otherwise be made if such adjustment had not been made.

"(H) PUBLICATION OF INFORMATION ON PER DIEM RATES.—The Secretary shall provide for publication in the Federal Register, before the July 1 preceding each fiscal year (beginning with fiscal year 1999), of—

"(i) the unadjusted Federal per diem rates to be applied to days of covered skilled nursing facility services furnished during the fiscal year,

"(ii) the case mix classification system to be applied under subparagraph (G)(i) with respect to such services during the fiscal year, and

"(iii) the factors to be applied in making the area wage adjustment under subparagraph (G)(ii) with respect to such services.

"(5) SKILLED NURSING FACILITY MARKET BASKET INDEX, PERCENTAGE, AND HISTORICAL TREND FACTOR.—For purposes of this subsection:

"(A) SKILLED NURSING FACILITY MARKET BASKET INDEX.—The Secretary shall establish a skilled nursing facility market basket index that reflects changes over time in the prices of an appropriate mix of goods and services included in covered skilled nursing facility services.

"(B) SKILLED NURSING FACILITY MARKET BASKET PERCENTAGE.—The term 'skilled nursing facility market basket percentage' means, for a fiscal year or other annual period and as calculated by the Secretary, the percentage change in the skilled nursing facility market basket index (established under subparagraph (A)) from the midpoint of the prior fiscal year (or period) to the midpoint of the fiscal year (or other period) involved.

"(C) SKILLED NURSING FACILITY HISTORICAL TREND FACTOR.—The term 'skilled nursing facility historical trend factor' means, for a fiscal year or other annual period and as calculated by the Secretary, the percentage change in the skilled nursing facility routine cost index (used in applying per diem routine cost limits under subsection (a)) from the midpoint of the prior fiscal year (or period) to the midpoint of the fiscal year (or other period) involved, reduced (on an annualized basis) by 1 percentage point.

"(6) SUBMISSION OF RESIDENT ASSESSMENT DATA.—A skilled nursing facility shall provide the Secretary, in a manner and within the timeframes prescribed by the Secretary, the resident assessment data necessary to develop and implement the rates under this subsection. For purposes of meeting such requirement, a skilled nursing facility may submit the resident assessment data required under section 1819(b)(3), using the standard instrument designated by the State under section 1819(e)(5).

"(7) TRANSITION FOR MEDICARE LOW VOLUME SKILLED NURSING FACILITIES AND SWING BED HOSPITALS.—

"(A) IN GENERAL.—The Secretary shall determine an appropriate manner in which to apply this subsection to the facilities described in subparagraph (B), taking into account the purposes of this subsection, and shall provide that at the end of the transition period (as defined in paragraph (2)(E)) such facilities shall be paid only under this subsection. Payment shall not be made under this subsection to such facilities for cost reporting periods beginning before such date (not earlier than July 1, 1999) as the Secretary specifies.

"(B) FACILITIES DESCRIBED.—The facilities described in this subparagraph are—

"(i) skilled nursing facilities for which payment is made for routine service costs during a cost reporting period, ending prior to the date of the implementation of this paragraph, on the basis of prospective payments under section 1888(d), or

"(ii) facilities that have in effect an agreement described in section 1883, for which payment is made for the furnishing of extended care services on a reasonable cost basis under section 1814(l) (as in effect on and after such date).

"(8) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of—

"(A) the establishment of facility specific per diem rates under paragraph (3);

"(B) the establishment of Federal per diem rates under paragraph (4), including the computation of the standardized per diem rates under paragraph (4)(C), adjustments and corrections for case mix under paragraphs (4)(F) and (4)(G)(i), and adjustments for variations in labor-related costs under paragraph (4)(G)(ii); and

"(C) the establishment of transitional amounts under paragraph (7).".

(b) CONSOLIDATED BILLING.—

(1) FOR SNF SERVICES.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(A) by striking "or" at the end of paragraph (15),

(B) by striking the period at the end of paragraph (16) and inserting "; or", and

(C) by inserting after paragraph (16) the following new paragraph:

"(17) which are covered skilled nursing facility services described in section 1888(e)(2)(A)(i) 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.".

(2) REQUIRING PAYMENT FOR ALL PART B ITEMS AND SERVICES TO BE MADE TO FACILITY.—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 (other than services described in section 1888(e)(2)(A)(ii)) 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).".

(3) PAYMENT RULES.—Section 1888(e) (42 U.S.C. 1395yy(e)), as added by subsection (a), is amended by adding at the end the following:

"(9) PAYMENT FOR CERTAIN SERVICES.—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 would otherwise (but for this paragraph) be made under part B in an amount determined in accordance with section 1833(a)(2)(B), the amount of the payment under such part shall be based on such existing or other fee schedules as the Secretary establishes.

"(10) REQUIRED CODING.—No payment may be made under part B for items and services (other than services described in paragraph (2)(A)(ii)) furnished to an individual who is a resident of a skilled nursing facility unless the claim for such payment includes a code (or codes) under a uniform coding system specified by the Secretary that identifies the items or services delivered.".

(4) CONFORMING AMENDMENTS.—

(A) Section 1819(b)(3)(C)(i) (42 U.S.C. 1395i-3(b)(3)(C)(i)) is amended by striking "Such" and inserting "Subject to the timeframes prescribed by the Secretary under section 1888(t)(6), such".

(B) 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);".

(C) Section 1833(a)(2)(B) (42 U.S.C. 1395l(a)(2)(B)) is amended by inserting "or section 1888(e)(9)" after "section 1886".

(D) Section 1861(h) (42 U.S.C 1395x(h)) is amended—

(i) in the opening paragraph, by striking "paragraphs (3) and (6)" and inserting "paragraphs (3), (6), and (7)", and

(ii) in paragraph (7), after "skilled nursing facilities", by inserting ", or by others under arrangements with them made by the facility".

(E) Section 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H)) is amended—

(i) by redesignating clauses (i) and (ii) as subclauses (I) and (II) respectively,

(ii) by inserting "(i)" after "(H)", and

(iii) by adding after clause (i), as so redesignated, the following new clause:

"(ii) in the case of skilled nursing facilities which provide covered skilled nursing facility services—

"(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,

to have items and services (other than services described in section 1888(e)(2)(A)(ii)) furnished by the skilled nursing facility or otherwise under arrangements (as defined in section 1861(w)(1)) made by the skilled nursing facility,".

(c) MEDICAL REVIEW PROCESS.—In order to ensure that medicare beneficiaries are furnished appropriate services in skilled nursing facilities, 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 section on the quality of covered skilled nursing facility 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 and physicians' services for which payment is made under title XVIII of the Social Security Act for which payment is made under section 1848 of such Act.

(d) EFFECTIVE DATE.—The amendments made by this section are effective for cost reporting periods beginning on or after July 1, 1998; except that the amendments made by subsection (b) shall apply to items and services furnished on or after July 1, 1998.

SEC. 10402. PROSPECTIVE PAYMENT FOR INPATIENT REHABILITATION HOSPITAL SERVICES.

(a) IN GENERAL.—Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

"(j) PROSPECTIVE PAYMENT FOR INPATIENT REHABILITATION SERVICES.—

"(1) PAYMENT DURING TRANSITION PERIOD.—

"(A) IN GENERAL.—Notwithstanding section 1814(b), but subject to the provisions of section 1813, the amount of the payment with respect to the operating and capital costs of inpatient hospital services of a rehabilitation hospital or a rehabilitation unit (in this subsection referred to as a 'rehabilitation facility'), in a cost reporting period beginning on or after October 1, 2000, and before October 1, 2003, is equal to the sum of—

"(i) the TEFRA percentage (as defined in subparagraph (C)) of the amount that would have been paid under part A with respect to such costs if this subsection did not apply, and

"(ii) the prospective payment percentage (as defined in subparagraph (C)) of the product of (I) the per unit payment rate established under this subsection for the fiscal year in which the payment unit of service occurs, and (II) the number of such payment units occurring in the cost reporting period.

"(B) FULLY IMPLEMENTED SYSTEM.—Notwithstanding section 1814(b), but subject to the provisions of section 1813, the amount of the payment with respect to the operating and capital costs of inpatient hospital services of a rehabilitation facility for a payment unit in a cost reporting period beginning on or after October 1, 2003, is equal to the per unit payment rate established under this subsection for the fiscal year in which the payment unit of service occurs.

"(C) TEFRA AND PROSPECTIVE PAYMENT PERCENTAGES SPECIFIED.—For purposes of subparagraph (A), for a cost reporting period beginning—

"(i) on or after October 1, 2000, and before October 1, 2001, the 'TEFRA percentage' is 75 percent and the 'prospective payment percentage' is 25 percent;

"(ii) on or after October 1, 2001, and before October 1, 2002, the 'TEFRA percentage' is 50 percent and the 'prospective payment percentage' is 50 percent; and

"(iii) on or after October 1, 2002, and before October 1, 2003, the 'TEFRA percentage' is 25 percent and the 'prospective payment percentage' is 75 percent.

"(D) PAYMENT UNIT.—For purposes of this subsection, the term 'payment unit' means a discharge, day of inpatient hospital services, or other unit of payment defined by the Secretary.

"(2) PATIENT CASE MIX GROUPS.—

"(A) ESTABLISHMENT.—The Secretary shall establish—

"(i) classes of patients of rehabilitation facilities (each in this subsection referred to as a 'case mix group'), based on such factors as the Secretary deems appropriate, which may include impairment, age, related prior hospitalization, comorbidities, and functional capability of the patient; and

"(ii) a method of classifying specific patients in rehabilitation facilities within these groups.

"(B) WEIGHTING FACTORS.—For each case mix group the Secretary shall assign an appropriate weighting which reflects the relative facility resources used with respect to patients classified within that group compared to patients classified within other groups.

"(C) ADJUSTMENTS FOR CASE MIX.—

"(i) IN GENERAL.—The Secretary shall from time to time adjust the classifications and weighting factors established under this paragraph as appropriate to reflect changes in treatment patterns, technology, case mix, number of payment units for which payment is made under this title, and other factors which may affect the relative use of resources. Such adjustments shall be made in a manner so that changes in aggregate payments under the classification system are a result of real changes and are not a result of changes in coding that are unrelated to real changes in case mix.

"(ii) ADJUSTMENT.—Insofar as the Secretary determines that such adjustments for a previous fiscal year (or estimates that such adjustments for a future fiscal year) did (or are likely to) result in a change in aggregate payments under the classification system during the fiscal year that are a result of changes in the coding or classification of patients that do not reflect real changes in case mix, the Secretary shall adjust the per payment unit payment rate for subsequent years so as to discount the effect of such coding or classification changes.

"(D) DATA COLLECTION.—The Secretary is authorized to require rehabilitation facilities that provide inpatient hospital services to submit such data as the Secretary deems necessary to establish and administer the prospective payment system under this subsection.

"(3) PAYMENT RATE.—

"(A) IN GENERAL.—The Secretary shall determine a prospective payment rate for each payment unit for which such rehabilitation facility is entitled to receive payment under this title. Subject to subparagraph (B), such rate for payment units occurring during a fiscal year shall be based on the average payment per payment unit under this title for inpatient operating and capital costs of rehabilitation facilities using the most recent data available (as estimated by the Secretary as of the date of establishment of the system) adjusted—

"(i) by updating such per-payment-unit amount to the fiscal year involved by the weighted average of the applicable percentage increases provided under subsection (b)(3)(B)(ii) (for cost reporting periods beginning during the fiscal year) covering the period from the midpoint of the period for such data through the midpoint of fiscal year 2000 and by an increase factor (described in subparagraph (C)) specified by the Secretary for subsequent fiscal years up to the fiscal year involved;

"(ii) by reducing such rates by a factor equal to the proportion of payments under this subsection (as estimated by the Secretary) based on prospective payment amounts which are additional payments described in paragraph (4) (relating to outlier and related payments) or paragraph (7);

"(iii) for variations among rehabilitation facilities by area under paragraph (6);

"(iv) by the weighting factors established under paragraph (2)(B); and

"(v) by such other factors as the Secretary determines are necessary to properly reflect variations in necessary costs of treatment among rehabilitation facilities.

"(B) BUDGET NEUTRAL RATES.—The Secretary shall establish the prospective payment amounts under this subsection for payment units during fiscal years 2001 through 2004 at levels such that, in the Secretary's estimation, the amount of total payments under this subsection for such fiscal years (including any payment adjustments pursuant to paragraphs (4), (6), and (7)) shall be equal to 99 percent of the amount of payments that would have been made under this title during the fiscal years for operating and capital costs of rehabilitation facilities had this subsection not been enacted. In establishing such payment amounts, the Secretary shall consider the effects of the prospective payment system established under this subsection on the total number of payment units from rehabilitation facilities and other factors described in subparagraph (A).

"(C) INCREASE FACTOR.—For purposes of this subsection for payment units in each fiscal year (beginning with fiscal year 2001), the Secretary shall establish an increase factor. Such factor shall be based on an appropriate percentage increase in a market basket of goods and services comprising services for which payment is made under this subsection, which may be the market basket percentage increase described in subsection (b)(3)(B)(iii).

"(4) OUTLIER AND SPECIAL PAYMENTS.—

"(A) OUTLIERS.—

"(i) IN GENERAL.—The Secretary may provide for an additional payment to a rehabilitation facility for patients in a case mix group, based upon the patient being classified as an outlier based on an unusual length of stay, costs, or other factors specified by the Secretary.

"(ii) PAYMENT BASED ON MARGINAL COST OF CARE.—The amount of such additional payment under clause (i) shall be determined by the Secretary and shall approximate the marginal cost of care beyond the cutoff point applicable under clause (i).

"(iii) TOTAL PAYMENTS.—The total amount of the additional payments made under this subparagraph for payment units in a fiscal year may not exceed 5 percent of the total payments projected or estimated to be made based on prospective payment rates for payment units in that year.

"(B) ADJUSTMENT.—The Secretary may provide for such adjustments to the payment amounts under this subsection as the Secretary deems appropriate to take into account the unique circumstances of rehabilitation facilities located in Alaska and Hawaii.

"(5) PUBLICATION.—The Secretary shall provide for publication in the Federal Register, on or before September 1 before each fiscal year (beginning with fiscal year 2001, of the classification and weighting factors for case mix groups under paragraph (2) for such fiscal year and a description of the methodology and data used in computing the prospective payment rates under this subsection for that fiscal year.

"(6) AREA WAGE ADJUSTMENT.—The Secretary shall adjust the proportion, (as estimated by the Secretary from time to time) of rehabilitation facilities' costs which are attributable to wages and wage-related

costs, of the prospective payment rates computed under paragraph (3) for area differences in wage levels by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the rehabilitation facility compared to the national average wage level for such facilities. Not later than October 1, 2001 (and at least every 36 months thereafter), the Secretary shall update the factor under the preceding sentence on the basis of a survey conducted by the Secretary (and updated as appropriate) of the wages and wage-related costs incurred in furnishing rehabilitation services. Any adjustments or updates made under this paragraph for a fiscal year shall be made in a manner that assures that the aggregated payments under this subsection in the fiscal year are not greater or less than those that would have been made in the year without such adjustment.

"(7) ADDITIONAL ADJUSTMENTS.—The Secretary may provide by regulation for—

"(A) an additional payment to take into account indirect costs of medical education and the special circumstances of hospitals that serve a significantly disproportionate number of low-income patients in a manner similar to that provided under subparagraphs (B) and (F), respectively, of subsection (d)(5); and

"(B) such other exceptions and adjustments to payment amounts under this subsection in a manner similar to that provided under subsection (d)(5)(I) in relation to payments under subsection (d).

"(8) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of—

"(A) the establishment of case mix groups, of the methodology for the classification of patients within such groups, and of the appropriate weighting factors thereof under paragraph (2),

"(B) the establishment of the prospective payment rates under paragraph (3),

"(C) the establishment of outlier and special payments under paragraph (4),

"(D) the establishment of area wage adjustments under paragraph (6), and

"(E) the establishment of additional adjustments under paragraph (7).".

(b) CONFORMING AMENDMENTS.—Section 1886(b) of such Act (42 U.S.C. 1395ww(b)) is amended—

(1) in paragraph (1), by inserting "and other than a rehabilitation facility described in subsection (j)(1)" after "subsection (d)(1)(B)", and

(2) in paragraph (3)(B)(i), by inserting "and subsection (j)" after "For purposes of subsection (d)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to cost reporting periods beginning on or after October 1, 2000, except that the Secretary of Health and Human Services may require the submission of data under section 1886(j)(2)(D) of the Social Security Act (as added by subsection (a)) on and after the date of the enactment of this section.

CHAPTER 2—PAYMENT UNDER PART B

Subchapter A—Payment for Hospital Outpatient Department Services

SEC. 10411. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS (FDO) FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.

(a) ELIMINATION OF FDO FOR AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(b) ELIMINATION OF FDO FOR RADIOLOGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1833(n)(1)(B)(i) (42 U.S.C. 1395l(n)(1)(B)(i)) is amended—

(1) by striking "of 80 percent", and

(2) by inserting before the period at the end the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished during portions of cost reporting periods occurring on or after October 1, 1997.

SEC. 10412. EXTENSION OF REDUCTIONS IN PAYMENTS FOR COSTS OF HOSPITAL OUTPATIENT SERVICES.

(a) REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS.—Section 1861(v)(1)(S)(ii)(I) (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by striking "through 1998" and inserting "through 1999 and during fiscal year 2000 before January 1, 2000".

(b) REDUCTION IN PAYMENTS FOR OTHER COSTS.—Section 1861(v)(1)(S)(ii)(II) (42 U.S.C. 1395x(v)(1)(S)(ii)(II)) is amended by striking "through 1998" and inserting "through 1999 and during fiscal year 2000 before January 1, 2000".

SEC. 10413. PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES.

(a) IN GENERAL.—Section 1833 (42 U.S.C. 1395l) is amended by adding at the end the following:

"(t) PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES.—

"(1) IN GENERAL.—With respect to hospital outpatient services designated by the Secretary (in this section referred to as 'covered OPD services') and furnished during a year beginning with 1999, the amount of payment under this part shall be determined under a prospective payment system established by the Secretary in accordance with this subsection.

"(2) SYSTEM REQUIREMENTS.—Under the payment system—

"(A) the Secretary shall develop a classification system for covered OPD services;

"(B) the Secretary may establish groups of covered OPD services, within the classification system described in subparagraph (A), so that services classified within each group are comparable clinically and with respect to the use of resources;

"(C) the Secretary shall, using data on claims from 1996 and using data from the most recent available cost reports, establish relative payment weights for covered OPD services (and any groups of such services described in subparagraph (B)) based on median hospital costs and shall determine projections of the frequency of utilization of each such service (or group of services) in 1999;

"(D) the Secretary shall determine a wage adjustment factor to adjust the portion of payment and coinsurance attributable to labor-related costs for relative differences in labor and labor-related costs across geographic regions in a budget neutral manner;

"(E) the Secretary shall establish other adjustments, in a budget neutral manner, as determined to be necessary to ensure equitable payments, such as outlier adjustments, adjustments to account for variations in coinsurance payments for procedures with similar resource costs, or adjustments for certain classes of hospitals; and

"(F) the Secretary shall develop a method for controlling unnecessary increases in the volume of covered OPD services.

"(3) CALCULATION OF BASE AMOUNTS.—

"(A) AGGREGATE AMOUNTS THAT WOULD BE PAYABLE IF DEDUCTIBLES WERE DISREGARDED.—The Secretary shall estimate the total amounts that would be payable from the Trust Fund under this part for covered OPD services in 1999, determined without regard to this subsection, as though the deductible under section 1833(b) did not apply, and as though the coinsurance described in section 1866(a)(2)(A)(ii) (as in effect before the date of the enactment of this subsection) continued to apply.

"(B) UNADJUSTED COPAYMENT AMOUNT.—

"(i) IN GENERAL.—For purposes of this subsection, subject to clause (ii), the 'unadjusted copayment amount' applicable to a covered OPD service (or group of such services) is 20 percent of national median of the charges for the service (or services within the group) furnished during 1996, updated to 1999 using the Secretary's estimate of charge growth during the period.

"(ii) ADJUSTED TO BE 20 PERCENT WHEN FULLY PHASED IN.—If the pre-deductible payment percentage for a covered OPD service (or group of such services) furnished in a year would be equal to or exceed 80 percent, then the unadjusted copayment amount shall be 25 percent of amount determined under subparagraph (D)(i).

"(iii) RULES FOR NEW SERVICES.—The Secretary shall establish rules for establishment of an unadjusted copayment amount for a covered OPD service not furnished during 1996, based upon its classification within a group of such services.

"(C) CALCULATION OF CONVERSION FACTORS.—

"(i) FOR 1999.—

"(I) IN GENERAL.—The Secretary shall establish a 1999 conversion factor for determining the medicare pre-deductible OPD fee payment amounts for each covered OPD service (or group of such services) furnished in 1999. Such conversion factor shall be established on the basis of the weights and frequencies described in paragraph (2)(C) and in a manner such that the sum for all services and groups of the products (described in subclause (II) for each such service or group) equals the total projected amount described in subparagraph (A).

"(II) PRODUCT DESCRIBED.—The product described in this subclause, for a service or group, is the product of the medicare pre-deductible OPD fee payment amounts (taking into account appropriate adjustments described in paragraphs (2)(D) and (2)(E)) and the frequencies for such service or group.

"(ii) SUBSEQUENT YEARS.—Subject to paragraph (8)(B), the Secretary shall establish a conversion factor for covered OPD services furnished in subsequent years in an amount equal to the conversion factor established under this subparagraph and applicable to such services furnished in the previous year increased by the OPD payment increase factor specified under clause (iii) for the year involved.

"(iii) OPD PAYMENT INCREASE FACTOR.—For purposes of this subparagraph, the 'OPD payment increase factor' for services furnished in a year is equal to the sum of—

"(I) market basket percentage increase (applicable under section 1886(b)(3)(B)(iii) to hospital discharges occurring during the fiscal year ending in such year, and

"(II) in the case of a covered OPD service (or group of such services) furnished in a year in which the pre-deductible payment percentage would not exceed 80 percent, 3.5 percentage points, but in no case greater than such number of percentage points as

will result in the pre-deductible payment percentage exceeding 80 percent.

In applying the previous sentence for years beginning with 2000, the Secretary may substitute for the market basket percentage increase under subclause (I) an annual percentage increase that is computed and applied with respect to covered OPD services furnished in a year in the same manner as the market basket percentage increase is determined and applied to inpatient hospital services for discharges occurring in a fiscal year.

"(D) PRE-DEDUCTIBLE PAYMENT PERCENTAGE.—The pre-deductible payment percentage for a covered OPD service (or group of such services) furnished in a year is equal to the ratio of—

"(i) the conversion factor established under subparagraph (C) for the year, multiplied by the weighting factor established under paragraph (2)(C) for the service (or group), to

"(ii) the sum of the amount determined under clause (i) and the unadjusted copayment amount determined under subparagraph (B) for such service or group.

"(E) CALCULATION OF MEDICARE OPD FEE SCHEDULE AMOUNTS.—The Secretary shall compute a medicare OPD fee schedule amount for each covered OPD service (or group of such services) furnished in a year, in an amount equal to the product of—

"(i) the conversion factor computed under subparagraph (C) for the year, and

"(ii) the relative payment weight (determined under paragraph (2)(C)) for the service or group.

"(4) MEDICARE PAYMENT AMOUNT.—The amount of payment made from the Trust Fund under this part for a covered OPD service (and such services classified within a group) furnished in a year is determined as follows:

"(A) FEE SCHEDULE AND COPAYMENT AMOUNT.—Add (i) the medicare OPD fee schedule amount (computed under paragraph (3)(E)) for the service or group and year, and (ii) the unadjusted copayment amount (determined under paragraph (3)(B)) for the service or group.

"(B) SUBTRACT APPLICABLE DEDUCTIBLE.—Reduce the sum determined under subparagraph (A) by the amount of the deductible under section 1833(b), to the extent applicable.

"(C) APPLY PAYMENT PROPORTION TO REMAINDER.—Multiply the amount so determined under subparagraph (B) by the pre-deductible payment percentage (as determined under paragraph (3)(D)) for the service or group and year involved.

"(D) LABOR-RELATED ADJUSTMENT.—The amount of payment is the product determined under subparagraph (C) with the labor-related portion of such product adjusted for relative differences in the cost of labor and other factors determined by the Secretary, as computed under paragraph (2)(D).

"(5) COPAYMENT AMOUNT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the copayment amount under this subsection is determined as follows:

"(i) UNADJUSTED COPAYMENT.—Compute the amount by which the amount described in paragraph (4)(B) exceeds the amount of payment determined under paragraph (4)(C).

"(ii) LABOR ADJUSTMENT.—The copayment amount is the difference determined under clause (i) with the labor-related portion of such difference adjusted for relative differences in the cost of labor and other factors determined by the Secretary, as computed under paragraphs (2)(D). The adjustment under this clause shall be made in a manner that does not result in any change in the aggregate copayments made in any year if the adjustment had not been made.

"(B) ELECTION TO OFFER REDUCED COPAYMENT AMOUNT.—The Secretary shall establish a procedure under which a hospital, before the beginning of a year (beginning with 1999), may elect to reduce the copayment amount otherwise established under subparagraph (A) for some or all covered OPD services to an amount that is not less than 25 percent of the medicare OPD fee schedule amount (computed under paragraph (3)(E)) for the service involved, adjusted for relative differences in the cost of labor and other factors determined by the Secretary, as computed under subparagraphs (D) and (E) of paragraph (2). Under such procedures, such reduced copayment amount may not be further reduced or increased during the year involved and the hospital may disseminate information on the reduction of copayment amount effected under this subparagraph.

"(C) NO IMPACT ON DEDUCTIBLES.—Nothing in this paragraph shall be construed as affecting a hospital's authority to waive the charging of a deductible under section 1833(b).

"(6) PERIODIC REVIEW AND ADJUSTMENTS COMPONENTS OF PROSPECTIVE PAYMENT SYSTEM.—

"(A) PERIODIC REVIEW.—The Secretary may periodically review and revise the groups, the relative payment weights, and the wage and other adjustments described in paragraph (2) to take into account changes in medical practice, changes in technology, the addition of new services, new cost data, and other relevant information and factors.

"(B) BUDGET NEUTRALITY ADJUSTMENT.—If the Secretary makes adjustments under subparagraph (A), then the adjustments for a year may not cause the estimated amount of expenditures under this part for the year to increase or decrease from the estimated amount of expenditures under this part that would have been made if the adjustments had not been made.

"(C) UPDATE FACTOR.—If the Secretary determines under methodologies described in subparagraph (2)(F) that the volume of services paid for under this subsection increased beyond amounts established through those methodologies, the Secretary may appropriately adjust the update to the conversion factor otherwise applicable in a subsequent year.

"(7) SPECIAL RULE FOR AMBULANCE SERVICES.—The Secretary shall pay for hospital outpatient services that are ambulance services on the basis described in the matter in subsection (a)(1) preceding subparagraph (A).

"(8) SPECIAL RULES FOR CERTAIN HOSPITALS.—In the case of hospitals described in section 1886(d)(1)(B)(v)—

"(A) the system under this subsection shall not apply to covered OPD services furnished before January 1, 2000; and

"(B) the Secretary may establish a separate conversion factor for such services in a manner that specifically takes into account the unique costs incurred by such hospitals by virtue of their patient population and service intensity.

"(9) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of—

"(A) the development of the classification system under paragraph (2), including the establishment of groups and relative payment weights for covered OPD services, of wage adjustment factors, other adjustments, and methods described in paragraph (2)(F);

"(B) the calculation of base amounts under paragraph (3);

"(C) periodic adjustments made under paragraph (6); and

"(D) the establishment of a separate conversion factor under paragraph (8)(B).".

(b) COINSURANCE.—Section 1866(a)(2)(A)(ii) (42 U.S.C. 1395cc(a)(2)(A)(ii)) is amended by adding at the end the following: "In the case of items and services for which payment is made under part B under the prospective payment system established under section 1833(t), clause (ii) of the first sentence shall be applied by substituting for 20 percent of the reasonable charge, the applicable copayment amount established under section 1833(t)(5).".

(c) TREATMENT OF REDUCTION IN COPAYMENT AMOUNT.—Section 1128A(i)(6) (42 U.S.C. 1320a–7a(i)(6)) is amended—

(1) by striking "or" at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(D) a reduction in the copayment amount for covered OPD services under section 1833(t)(5)(B).".

(d) CONFORMING AMENDMENTS.—

(1) APPROVED ASC PROCEDURES PERFORMED IN HOSPITAL OUTPATIENT DEPARTMENTS.—

(A)(i) Section 1833(i)(3)(A) (42 U.S.C. 13951(i)(3)(A)) is amended—

(I) by inserting "before January 1, 1999," after "furnished", and

(II) by striking "in a cost reporting period".

(ii) The amendment made by clause (i) shall apply to services furnished on or after January 1, 1999.

(B) Section 1833(a)(4) (42 U.S.C. 13951(a)(4)) is amended by inserting "or subsection (t)" before the semicolon.

(2) RADIOLOGY AND OTHER DIAGNOSTIC PROCEDURES.—

(A) Section 1833(n)(1)(A) (42 U.S.C. 1395l(n)(1)(A)) is amended by inserting "and before January 1, 1999," after "October 1, 1988," and after "October 1, 1989,".

(B) Section 1833(a)(2)(E) (42 U.S.C. 1395l(a)(2)(E)) is amended by inserting "or, for services or procedures performed on or after January 1, 1999, (t)" before the semicolon.

(3) OTHER HOSPITAL OUTPATIENT SERVICES.—Section –1833(a)(2)(B) (42 U.S.C. 1395l(a)(2)(B)) is amended—

(A) in clause (i), by inserting "furnished before January 1, 1999," after "(i)",

(B) in clause (ii), by inserting "before January 1, 1999," after "furnished",

(C) by redesignating clause (iii) as clause (iv), and

(D) by inserting after clause (ii), the following new clause:

"(iii) if such services are furnished on or after January 1, 1999, the amount determined under subsection (t), or".

Subchapter B—Rehabilitation Services

SEC. 10421. REHABILITATION AGENCIES AND SERVICES.

(a) PAYMENT BASED ON FEE SCHEDULE.—

(1) SPECIAL PAYMENT RULES.—Section 1833(a) (42 U.S.C. 1395l(a)) is amended—

(A) in paragraph (2) in the matter before subparagraph (A), by inserting "(C)," before "(D)";

(B) in paragraph (6), by striking "and" at the end;

(C) in paragraph (7), by striking the period at the end and inserting "; and";

(D) by adding at the end the following new paragraph:

"(8) in the case of services described in section 1832(a)(2)(C) (that are not described in section 1832(a)(2)(B)), the amounts described in section 1834(k).".

(2) PAYMENT RATES.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(k) PAYMENT FOR OUTPATIENT THERAPY SERVICES.—

"(1) IN GENERAL.—With respect to outpatient physical therapy services (which includes outpatient speech-language pathology services) and outpatient occupational therapy services for which payment is determined under this subsection, the payment basis shall be—

"(A) for services furnished during 1998, the amount determined under paragraph (2); or

"(B) for services furnished during a subsequent year, 80 percent of the lesser of—

"(i) the actual charge for the services, or

"(ii) the applicable fee schedule amount (as defined in paragraph (3)) for the services.

"(2) PAYMENT IN 1998 BASED UPON ADJUSTED REASONABLE COSTS.—The amount under this paragraph for services is the lesser of—

"(A) the charges imposed for the services, or

"(B) the adjusted reasonable costs (as defined in paragraph (4)) for the services,

less 20 percent of the amount of the charges imposed for such services.

"(3) APPLICABLE FEE SCHEDULE AMOUNT.—In this paragraph, the term 'applicable fee schedule amount' means, with respect to services furnished in a year, the fee schedule amount established under section 1848 for such services furnished during the year or, if there is no such fee schedule amount established for such services, for such comparable services as the Secretary specifies.

"(4) ADJUSTED REASONABLE COSTS.—In paragraph (2), the term 'adjusted reasonable costs' means reasonable costs determined reduced by—

"(A) 5.8 percent of the reasonable costs for operating costs, and

"(B) 10 percent of the reasonable costs for capital costs.

"(5) UNIFORM CODING.—For claims for services submitted on or after April 1, 1998, for which the amount of payment is determined under this subsection, the claim shall include a code (or codes) under a uniform coding system specified by the Secretary that identifies the services furnished.

"(6) RESTRAINT ON BILLING.—The provisions of subparagraphs (A) and (B) of section 1842(b)(18) shall apply to therapy services for which payment is made under this subsection in the same manner as they apply to services provided by a practitioner described in section 1842(b)(18)(C).".

(b) APPLICATION OF STANDARDS TO OUTPATIENT OCCUPATIONAL AND PHYSICAL THERAPY SERVICES PROVIDED AS AN INCIDENT TO A PHYSICIAN'S PROFESSIONAL SERVICES.—Section 1862(a), as amended by section 10401(b), (42 U.S.C. 1395y(a)) is amended—

(1) by striking "or" at the end of paragraph (16);

(2) by striking the period at the end of paragraph (17) and inserting "; or"; and

(3) by inserting after paragraph (17) the following:

"(18) in the case of outpatient occupational therapy services or outpatient physical therapy services furnished as an incident to a physician's professional services (as described in section 1861(s)(2)(A)), that do not meet the standards and conditions under the second sentence of section 1861(g) or 1861(p) as such standards and conditions would apply to such therapy services if furnished by a therapist.".

(c) APPLYING FINANCIAL LIMITATION TO ALL REHABILITATION SERVICES.—Section 1833(g) (42 U.S.C. 1395l(g)) is amended—

(1) in the first sentence, by striking "services described in the second sentence of section 1861(p)" and inserting "physical therapy services of the type described in section 1861(p) (regardless of who furnishes the services or whether the services may be covered as physicians' services so long as the services are furnished other than in a hospital setting)", and

(2) in the second sentence, by striking "outpatient occupational therapy services which are described in the second sentence of section 1861(p) through the operation of section 1861(g)" and inserting "occupational therapy services (of the type that are described in section 1861(p) through the operation of section 1861(g)), regardless of who furnishes the services or whether the services may be covered as physicians' services so long as the services are furnished other than in a hospital setting".

(d) INDEXING LIMITATION.—Section 1833(g) (42 U.S.C. 1395l(g)), as amended by subsection (c), is further amended—

(1) by striking "$900" each place it appears and inserting "the amount specified in paragraph (2) for the year",

(2) by inserting "(1)" after "(g)",

(3) by designating the last sentence as a paragraph (3), and

(4) by inserting before paragraph (3), as so designated, the following:

"(2) The amount specified in this paragraph—

"(A) for 1999, and each preceding year, is $900, and

"(B) for a subsequent year is the amount specified in this paragraph for the preceding year increased by the Secretary's estimate of the projected percentage growth in real gross domestic product per capita from the fiscal year ending in the preceding year to the fiscal year ending in such subsequent year.".

(e) EFFECTIVE DATE.—The amendments made by this section apply to services furnished on or after January 1, 1998; except that the amendments made by subsection (c) apply to services furnished on or after January 1, 1999.

SEC. 10422. COMPREHENSIVE OUTPATIENT REHABILITATION FACILITIES (CORF).

(a) PAYMENT BASED ON FEE SCHEDULE.—

(1) SPECIAL PAYMENT RULES.—Section 1833(a) (42 U.S.C. 1395l(a)), as amended by section 10421(a), is amended—

(A) in paragraph (3), by striking "subparagraphs (D) and (E) of section 1832(a)(2)" and inserting "section 1832(a)(2)(E)";

(B) in paragraph (7), by striking "and" at the end;

(C) in paragraph (8), by striking the period at the end and inserting "; and";

(D) by adding at the end the following new paragraph:

"(9) in the case of services described in section 1832(a)(2)(E), the amounts described in section 1834(k).".

(2) PAYMENT RATES.—Section 1834(k) (42 U.S.C. 1395m(k)), as added by section 10421(a), is amended—

(A) in the heading, by inserting "AND COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY SERVICES" after "THERAPY SERVICES"; and

(B) in paragraph (1), by inserting "and with respect to comprehensive outpatient rehabilitation facility services" after "occupational therapy services".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after January 1, 1998, and to portions of cost reporting periods occurring on or after such date.

Subchapter C—Ambulance Services

SEC. 10431. PAYMENTS FOR AMBULANCE SERVICES.

(a) INTERIM REDUCTIONS.—

(1) PAYMENTS DETERMINED ON REASONABLE COST BASIS.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

"(U) In determining the reasonable cost of ambulance services (as described in subsection (s)(7)) provided during a fiscal year (beginning with fiscal year 1998 and ending with fiscal year 2002), the Secretary shall not recognize any costs in excess of costs recognized as reasonable for ambulance services provided during the previous fiscal year after application of this subparagraph, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with the midpoint of the fiscal year involved reduced (in the case of each of fiscal years 1998 and 1999) by 1 percentage point.".

(2) PAYMENTS DETERMINED ON REASONABLE CHARGE BASIS.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by adding at the end the following new paragraph:

"(19) For purposes of section 1833(a)(1), the reasonable charge for ambulance services (as described in section 1861(s)(7)) provided during a fiscal year (beginning with fiscal year 1998 and ending with fiscal year 2002) may not exceed the reasonable charge for such services provided during the previous fiscal year after the application of this paragraph, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with the midpoint of the year involved reduced (in the case of each of fiscal years 1998 and 1999) by 1 percentage point.".

(b) ESTABLISHMENT OF PROSPECTIVE FEE SCHEDULE.—

(1) PAYMENT IN ACCORDANCE WITH FEE SCHEDULE.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)), as amended by section 10619(b)(1), is amended—

(A) by striking "and (P)" and inserting "(P)"; and

(B) by striking the semicolon at the end and inserting the following: ", and (Q) with respect to ambulance service, the amounts paid shall be 80 percent of the lesser of the actual charge for the services or the amount determined by a fee schedule established by the Secretary under section 1834(l);".

(2) ESTABLISHMENT OF SCHEDULE.—Section 1834 (42 U.S.C. 1395m), as amended by section 10421(a)(2), is amended by adding at the end the following new subsection:

"(l) ESTABLISHMENT OF FEE SCHEDULE FOR AMBULANCE SERVICES.—

"(1) IN GENERAL.—The Secretary shall establish a fee schedule for payment for ambulance services under this part through a negotiated rulemaking process described in title 5, United States Code, and in accordance with the requirements of this subsection.

"(2) CONSIDERATIONS.—In establishing such fee schedule the Secretary shall—

"(A) establish mechanisms to control increases in expenditures for ambulance services under this part;

"(B) establish definitions for ambulance services which link payments to the type of services provided;

"(C) consider appropriate regional and operational differences;

"(D) consider adjustments to payment rates to account for inflation and other relevant factors; and

"(E) phase in the application of the payment rates under the fee schedule in an efficient and fair manner.

"(3) SAVINGS.—In establishing such fee schedule the Secretary shall—

"(A) ensure that the aggregate amount of payments made for ambulance services under this part during 2000 does not exceed the aggregate amount of payments which would have been made for such services under this part during such year if the amendments made by section 10431 of the Balanced Budget Act of 1997 had not been made; and

"(B) set the payment amounts provided under the fee schedule for services furnished in 2001 and each subsequent year at amounts equal to the payment amounts under the fee schedule for service furnished during the previous year, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

"(4) CONSULTATION.—In establishing the fee schedule for ambulance services under this subsection, the Secretary shall consult with various national organizations representing individuals and entities who furnish and regulate ambulance services and share with such organizations relevant data in establishing such schedule.

"(5) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869 or otherwise of the amounts established under the fee schedule for ambulance services under this subsection, including matters described in paragraph (2).

"(6) RESTRAINT ON BILLING.—The provisions of subparagraphs (A) and (B) of section 1842(b)(18) shall apply to ambulance services for which payment is made under this subsection in the same manner as they apply to services provided by a practitioner described in section 1842(b)(18)(C).".

(3) EFFECTIVE DATE.—The amendments made by this section apply to ambulance services furnished on or after January 1, 2000.

(c) AUTHORIZING PAYMENT FOR PARAMEDIC INTERCEPT SERVICE PROVIDERS IN RURAL COMMUNITIES.—In promulgating regulations to carry out section 1861(s)(7) of the Social Security Act (42 U.S.C. 1395x(s)(7)) with respect to the coverage of ambulance service, the Secretary of Health and Human Services may include coverage of advanced life support services (in this subsection referred to as "ALS intercept services") provided by a paramedic intercept service provider in a rural area if the following conditions are met:

(1) The ALS intercept services are provided under a contract with one or more volunteer ambulance services and are medically necessary based on the health condition of the individual being transported.

(2) The volunteer ambulance service involved—

(A) is certified as qualified to provide ambulance service for purposes of such section,

(B) provides only basic life support services at the time of the intercept, and

(C) is prohibited by State law from billing for any services.

(3) The entity supplying the ALS intercept services—

(A) is certified as qualified to provide such services under the medicare program under title XVIII of the Social Security Act, and

(B) bills all recipients who receive ALS intercept services from the entity, regardless of whether or not such recipients are medicare beneficiaries.

SEC. 10432. DEMONSTRATION OF COVERAGE OF AMBULANCE SERVICES UNDER MEDICARE THROUGH CONTRACTS WITH UNITS OF LOCAL GOVERNMENT.

(a) DEMONSTRATION PROJECT CONTRACTS WITH LOCAL GOVERNMENTS.—The Secretary of Health and Human Services shall establish up to 3 demonstration projects under which, at the request of a county or parish, the Secretary enters into a contract with the county or parish under which—

(1) the county or parish furnishes (or arranges for the furnishing) of ambulance services for which payment may be made under part B of title XVIII of the Social Security Act for individuals residing in the county or parish who are enrolled under such part, except that the county or parish may not enter into the contract unless the contract covers at least 80 percent of the individuals residing in the county or parish who are enrolled under such part;

(2) any individual or entity furnishing ambulance services under the contract meets the requirements otherwise applicable to individuals and entities furnishing such services under such part; and

(3) for each month during which the contract is in effect, the Secretary makes a capitated payment to the county or parish in accordance with subsection (b).

The projects may extend over a period of not to exceed 3 years each.

(b) AMOUNT OF PAYMENT.—

(1) IN GENERAL.—The amount of the monthly payment made for months occurring during a calendar year to a county or parish under a demonstration project contract under subsection (a) shall be equal to the product of—

(A) the Secretary's estimate of the number of individuals covered under the contract for the month; and

(B) 1/12 of the capitated payment rate for the year established under paragraph (2).

(2) CAPITATED PAYMENT RATE DEFINED.—In this subsection, the "capitated payment rate" applicable to a contract under this subsection for a calendar year is equal to 95 percent of—

(A) for the first calendar year for which the contract is in effect, the average annual per capita payment made under part B of title XVIII of the Social Security Act with respect to ambulance services furnished to such individuals during the 3 most recent calendar years for which data on the amount of such payment is available; and

(B) for a subsequent year, the amount provided under this paragraph for the previous year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

(c) OTHER TERMS OF CONTRACT.—The Secretary and the county or parish may include in a contract under this section such other terms as the parties consider appropriate, including—

(1) covering individuals residing in additional counties or parishes (under arrangements entered into between such counties or parishes and the county or parish involved);

(2) permitting the county or parish to transport individuals to non-hospital providers if such providers are able to furnish quality services at a lower cost than hospital providers; or

(3) implementing such other innovations as the county or parish may propose to improve the quality of ambulance services and control the costs of such services.

(d) CONTRACT PAYMENTS IN LIEU OF OTHER BENEFITS.—Payments under a contract to a county or parish under this section shall be instead of the amounts which (in the absence of the contract) would otherwise be payable under part B of title XVIII of the Social Security Act for the services covered under the contract which are furnished to individuals who reside in the county or parish.

(e) REPORT ON EFFECTS OF CAPITATED CONTRACTS.—

(1) STUDY.—The Secretary shall evaluate the demonstration projects conducted under this section. Such evaluation shall include an analysis of the quality and cost-effectiveness of ambulance services furnished under the projects.

(2) REPORT.—Not later than January 1, 2000, the Secretary shall submit a report to Congress on the study conducted under paragraph (1), and shall include in the report such recommendations as the Secretary considers appropriate, including recommendations regarding modifications to the methodology used to determine the amount of payments made under such contracts and extending or expanding such projects.

CHAPTER 3—PAYMENT UNDER PARTS A AND B

SEC. 10441. PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 10011, is amended by adding at the end the following new section:

"PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES

"SEC. 1895. (a) IN GENERAL.—Notwithstanding section 1861(v), the Secretary shall provide, for cost reporting periods beginning on or after October 1, 1999, for payments for home health services in accordance with a prospective payment system established by the Secretary under this section.

"(b) SYSTEM OF PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES.—

"(1) IN GENERAL.—The Secretary shall establish under this subsection a prospective payment system for payment for all costs of home health services. Under the system under this subsection 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 this section, including medical supplies, shall be paid for on the basis of a prospective payment amount determined under this subsection and applicable to the services involved. In implementing the system, the Secretary may provide for a transition (of not longer than 4 years) during which a portion of such payment is based on agency-specific costs, but only if such transition does not result in aggregate payments under this title that exceed the aggregate payments that would be made if such a transition did not occur.

"(2) UNIT OF PAYMENT.—In defining a prospective payment amount under the system under this subsection, the Secretary shall consider an appropriate unit of service and the number, type, and duration of visits provided within that unit, potential changes in the mix of services provided within that unit and their cost, and a general system design that provides for continued access to quality services.

"(3) PAYMENT BASIS.—

"(A) INITIAL BASIS.—

"(i) IN GENERAL.—Under such system the Secretary shall provide for computation of a standard prospective payment amount (or amounts). Such amount (or amounts) shall

initially be based on the most current audited cost report data available to the Secretary and shall be computed in a manner so that the total amounts payable under the system for fiscal year 2000 shall be equal to the total amount that would have been made if the system had not been in effect but if the reduction in limits described in clause (ii) had been in effect. Such amount shall be standardized in a manner that eliminates the effect of variations in relative case mix and wage levels among different home health agencies in a budget neutral manner consistent with the case mix and wage level adjustments provided under paragraph (4)(A). Under the system, the Secretary may recognize regional differences or differences based upon whether or not the services or agency are in an urbanized area.

"(ii) REDUCTION.—The reduction described in this clause is a reduction by 15 percent in the cost limits and per beneficiary limits described in section 1861(v)(1)(L), as those limits are in effect on September 30, 1999.

"(B) ANNUAL UPDATE.—

"(i) IN GENERAL.—The standard prospective payment amount (or amounts) shall be adjusted for each fiscal year (beginning with fiscal year 2001) in a prospective manner specified by the Secretary by the home health market basket percentage increase applicable to the fiscal year involved.

"(ii) HOME HEALTH MARKET BASKET PERCENTAGE INCREASE.—For purposes of this subsection, the term 'home health market basket percentage increase' means, with respect to a fiscal year, a percentage (estimated by the Secretary before the beginning of the fiscal year) determined and applied with respect to the mix of goods and services included in home health services in the same manner as the market basket percentage increase under section 1886(b)(3)(B)(iii) is determined and applied to the mix of goods and services comprising inpatient hospital services for the fiscal year.

"(C) ADJUSTMENT FOR OUTLIERS.—The Secretary shall reduce the standard prospective payment amount (or amounts) under this paragraph applicable to home health services furnished during a period by such proportion as will result in an aggregate reduction in payments for the period equal to the aggregate increase in payments resulting from the application of paragraph (5) (relating to outliers).

"(4) PAYMENT COMPUTATION.—

"(A) IN GENERAL.—The payment amount for a unit of home health services shall be the applicable standard prospective payment amount adjusted as follows:

"(i) CASE MIX ADJUSTMENT.—The amount shall be adjusted by an appropriate case mix adjustment factor (established under subparagraph (B)).

"(ii) AREA WAGE ADJUSTMENT.—The portion of such amount that the Secretary estimates to be attributable to wages and wage-related costs shall be adjusted for geographic differences in such costs by an area wage adjustment factor (established under subparagraph (C)) for the area in which the services are furnished or such other area as the Secretary may specify.

"(B) ESTABLISHMENT OF CASE MIX ADJUSTMENT FACTORS.—The Secretary shall establish appropriate case mix adjustment factors for home health services in a manner that explains a significant amount of the variation in cost among different units of services.

"(C) ESTABLISHMENT OF AREA WAGE ADJUSTMENT FACTORS.—The Secretary shall establish area wage adjustment factors that reflect the relative level of wages and wage-related costs applicable to the furnishing of home health services in a geographic area compared to the national average applicable level. Such factors may be the factors used by the Secretary for purposes of section 1886(d)(3)(E).

"(5) OUTLIERS.—The Secretary may provide for an addition or adjustment to the payment amount otherwise made in the case of outliers because of unusual variations in the type or amount of medically necessary care. The total amount of the additional payments or payment adjustments made under this paragraph with respect to a fiscal year may not exceed 5 percent of the total payments projected or estimated to be made based on the prospective payment system under this subsection in that year.

"(6) PRORATION OF PROSPECTIVE PAYMENT AMOUNTS.—If a beneficiary elects to transfer to, or receive services from, another home health agency within the period covered by the prospective payment amount, the payment shall be prorated between the home health agencies involved.

"(c) REQUIREMENTS FOR PAYMENT INFORMATION.—With respect to home health services furnished on or after October 1, 1998, no claim for such a service may be paid under this title unless—

"(1) the claim has the unique identifier (provided under section 1842(r)) for the physician who prescribed the services or made the certification described in section 1814(a)(2) or 1835(a)(2)(A); and

"(2) in the case of a service visit described in paragraph (1), (2), (3), or (4) of section 1861(m), the claim has information (coded in an appropriate manner) on the length of time of the service visit, as measured in 15 minute increments.

"(d) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of—

"(1) the establishment of a transition period under subsection (b)(1);

"(2) the definition and application of payment units under subsection (b)(2);

"(3) the computation of initial standard prospective payment amounts under subsection (b)(3)(A) (including the reduction described in clause (ii) of such subsection);

"(4) the establishment of the adjustment for outliers under subsection (b)(3)(C);

"(5) the establishment of case mix and area wage adjustments under subsection (b)(4);

"(6) the establishment of any adjustments for outliers under subsection (b)(5); and

"(7) the amounts or types of adjustments under subsection (b)(7).".

(b) ELIMINATION OF PERIODIC INTERIM PAYMENTS FOR HOME HEALTH AGENCIES.—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).

(c) CONFORMING AMENDMENTS.—

(1) PAYMENTS UNDER PART A.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended in the matter preceding paragraph (1) by striking "and 1886" and inserting "1886, and 1895".

(2) TREATMENT OF ITEMS AND SERVICES PAID UNDER PART B.—

(A) PAYMENTS UNDER PART B.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(i) by amending subparagraph (A) to read as follows:

"(A) with respect to home health services (other than a covered osteoporosis drug) (as defined in section 1861(kk)), the amount determined under the prospective payment system under section 1895;";

(ii) by striking "and" at the end of subparagraph (E);

(iii) by adding "and" at the end of subparagraph (F); and

(iv) by adding at the end the following new subparagraph:

"(G) with respect to items and services described in section 1861(s)(10)(A), the lesser of—

"(i) the reasonable cost of such services, as determined under section 1861(v), or

"(ii) the customary charges with respect to such services,

or, if such services are furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this provision), free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2);".

(B) REQUIRING PAYMENT FOR ALL ITEMS AND SERVICES TO BE MADE TO AGENCY.—

(i) IN GENERAL.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)), as amended by section 10401(b)(2), is amended—

(I) by striking "and (E)" and inserting "(E)"; and

(II) by striking the period at the end and inserting the following: ", and (F) in the case of home health services furnished to an individual who (at the time the item or service is furnished) is under a plan of care of a home health agency, payment shall be made to the agency (without regard to whether or not the item or service was furnished by the agency, by others under arrangement with them made by the agency, or when any other contracting or consulting arrangement, or otherwise).".

(ii) CONFORMING AMENDMENT.—Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)), as amended by section 10401(b), is amended by striking "and section 1842(b)(6)(E)" and inserting ", section 1842(b)(6)(E), and section 1842(b)(6)(F)".

(C) EXCLUSIONS FROM COVERAGE.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by sections 10401(b) and 10421(b), is amended—

(i) by striking "or" at the end of paragraph (17);

(ii) by striking the period at the end of paragraph (18) and inserting "; or"; and

(iii) inserting after paragraph (18) the following new paragraph:

"(19) where such expenses are for home health services furnished to an individual who is under a plan of care of the home health agency if the claim for payment for such services is not submitted by the agency.".

(d) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall apply to cost reporting periods beginning on or after October 1, 1999.

Subtitle F—Provisions Relating to Part A

CHAPTER 1—PAYMENT OF PPS HOSPITALS

SEC. 10501. PPS HOSPITAL PAYMENT UPDATE.

Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(1) by striking "and" at the end of subclause (XII), and

(2) by striking subclause (XIII) and inserting the following:

"(XIII) for fiscal year 1998, 0 percent,

"(XIV) for each of the fiscal years 1999 through 2002, the market basket percentage increase minus 1.0 percentage point for hospitals in all areas, and

"(XV) for fiscal year 2003 and each subsequent fiscal year, the market basket percentage increase for hospitals in all areas.".

SEC. 10502. CAPITAL PAYMENTS FOR PPS HOSPITALS.

(a) MAINTAINING SAVINGS FROM TEMPORARY REDUCTION IN PPS CAPITAL RATES.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended by adding at the end the following: "In addition to the reduction described in the preceding sentence, for discharges occurring on or after October 1, 1997, the Secretary shall apply the budget neutrality adjustment factor used to determine the Federal capital payment rate in effect on September 30, 1995 (as described in section 412.352 of title 42 of the Code of Federal Regulations), to (i) the unadjusted standard Federal capital payment rate (as described in section 412.308(c) of that title, as in effect on September 30, 1997), and (ii) the unadjusted hospital-specific rate (as described in section 412.328(e)(1) of that title, as in effect on September 30, 1997).".

(b) REVISION OF EXCEPTIONS PROCESS UNDER PROSPECTIVE PAYMENT SYSTEM FOR CERTAIN PROJECTS.—

(1) IN GENERAL.—Section 1886(g)(1) (42 U.S.C. 1395ww(g)(1)) is amended—

(A) by redesignating subparagraph (C) as subparagraph (F), and

(B) by inserting after subparagraph (B) the following subparagraphs:

"(C) The exceptions under the system provided by the Secretary under subparagraph (B)(iii) shall include the provision of exception payments under the special exceptions process provided under section 412.348(g) of title 42, Code of Federal Regulations (as in effect on September 1, 1995), except that the Secretary shall revise such process, effective for discharges occurring after September 30, 1997, as follows:

"(i) A hospital with at least 100 beds which is located in an urban area shall be eligible under such process without regard to its disproportionate patient percentage under subsection (d)(5)(F) or whether it qualifies for additional payment amounts under such subsection.

"(ii) The minimum payment level for qualifying hospitals shall be 85 percent (or such lower percentage, but no lower than 75 percent, as the Secretary may provide to comply with subparagraph (D)).

"(iii) A hospital shall be considered to meet the requirement that it complete the project involved no later than the end of the hospital's last cost reporting period beginning before October 1, 2001, if—

"(I) the hospital has obtained a certificate of need for the project approved by the State or a local planning authority by September 1, 1995, and

"(II) by September 1, 1995, the hospital has expended on the project at least $750,000 or 10 percent of the estimated cost of the project.

"(iv) Offsetting amounts, as described in section 412.348(g)(8)(ii) of title 42, Code of Federal Regulations, shall apply except that subparagraph (B) of such section shall be revised to require that the additional payment that would otherwise be payable for the cost reporting period shall be reduced by the amount (if any) by which the hospital's current year medicare capital payments (excluding, if applicable, 75 percent of the hospital's capital-related disproportionate share payments) exceeds its medicare capital costs for such year.

"(D) The Secretary may reduce the percent specified under subparagraph (C)(ii) (but not below 75 percent) and shall reduce the Federal capital rate for a fiscal year by such percentage as the Secretary determines to be necessary to ensure that the application of subparagraph (C) does not result in an increase in the total amount that would have been paid under this subsection in the fiscal year if such subparagraph did not apply.

"(E) The Secretary shall provide for publication in the Federal Register each year (beginning with 1999) a description of the distributional impact of the application of subparagraph (C) on hospitals which receive, and do not receive, an exception payment under such subparagraph.".

(2) CONFORMING AMENDMENT.—Section 1886(g)(1)(B)(iii) (42 U.S.C. 1395ww(g)(1)(B)(iii)) is amended by striking "may provide" and inserting "shall provide (in accordance with subparagraph (C))".

SEC. 10503. FREEZE IN DISPROPORTIONATE SHARE.

(a) NO UPDATE IN DISPROPORTIONATE SHARE FOR FISCAL YEARS 1998 AND 1999.—Section 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is amended in clause (ii) by adding at the end the following new sentence: "For discharges occurring on or after October 1, 1997, the sum described in subclause (I) shall be determined as if the applicable percentage increase described in subsection (b)(3)(B)(i) for discharges for fiscal years 1998 and 1999 were zero percent.".

(b) DEVELOPMENT OF REVISED QUALIFYING CRITERIA AND PAYMENT METHODOLOGY FOR HOSPITALS THAT SERVE A DISPROPORTIONATE SHARE OF LOW-INCOME PATIENTS.—

(1) DEVELOPMENT OF PROPOSAL.—The Secretary of Health and Human Services shall develop a proposal to modify the current qualifying criteria and payment methodology under which hospitals that are paid under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) receive an additional payment because they serve a disproportionate share of low-income patients.

(2) REPORT.—Not later than April 1, 1999, the Secretary shall transmit the proposal developed under paragraph (1) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 10504. MEDICARE CAPITAL ASSET SALES PRICE EQUAL TO BOOK VALUE.

(a) IN GENERAL.—Section 1861(v)(1)(O) (42 U.S.C. 1395x(v)(1)(O)) is amended—

(1) in clause (i)—

(A) by striking "and (if applicable) a return on equity capital";

(B) by striking "hospital or skilled nursing facility" and inserting "provider of services";

(C) by striking "clause (iv)" and inserting "clause (iii)"; and

(D) by striking "the lesser of the allowable acquisition cost" and all that follows and inserting "the historical cost of the asset, as recognized under this title, less depreciation allowed, to the owner of record as of the date of enactment of the Balanced Budget Act of 1997 (or, in the case of an asset not in existence as of that date, the first owner of record of the asset after that date).";

(2) by striking clause (ii); and

(3) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to changes of ownership that occur after the third month beginning after the date of enactment of this section.

SEC. 10505. ELIMINATION OF IME AND DSH PAYMENTS ATTRIBUTABLE TO OUTLIER PAYMENTS.

(a) INDIRECT MEDICAL EDUCATION.—Section 1886(d)(5)(B)(i)(I) (42 U.S.C. 1395ww(d)(5)(B)(i)(I)) is amended by inserting ", for cases qualifying for additional payment under subparagraph (A)(i)," before "the amount paid to the hospital under subparagraph (A)".

(b) DISPROPORTIONATE SHARE ADJUSTMENTS.—Section 1886(d)(5)(F)(ii)(I) (42 U.S.C. 1395ww(d)(5)(F)(ii)(I)) is amended by inserting ", for cases qualifying for additional payment under subparagraph (A)(i)," before "the amount paid to the hospital under subparagraph (A)".

(c) COST OUTLIER PAYMENTS.—Section 1886(d)(5)(A)(ii) (42 U.S.C. 1395ww(d)(5)(A)(ii)) is amended by striking "exceed the applicable DRG prospective payment rate" and inserting "exceed the sum of the applicable DRG prospective payment rate plus any amounts payable under paragraphs (d)(5)(B) and (d)(5)(F)".

(d) EFFECTIVE DATE.—The amendments made by this section apply to discharges occurring after September 30, 1997.

SEC. 10506. REDUCTION IN ADJUSTMENT FOR INDIRECT MEDICAL EDUCATION.

(a) 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 for discharges occurring—

"(I) on or after October 1, 1988 and before October 1, 1997, is equal to 1.89 (((1+r) to the nth power) −1),

"(II) during fiscal year 1998, is equal to 1.62 (((1+r) to the nth power) −1), and

"(III) during or after fiscal year 1999, is equal to 1.35 (((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 0.405, subject to clause (vi).".

(b) CONFORMING AMENDMENT RELATING TO DETERMINATION OF STANDARDIZED AMOUNTS.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended by adding at the end the following: "except that the Secretary shall not take into account any reductions in the amount of additional payments under paragraph (5)(B)(ii) resulting from the amendments made by section 10506(a) of the Balanced Budget Act of 1997,".

(c) LIMITATION ON NUMBER OF RESIDENTS FOR CERTAIN FISCAL YEARS.—Section 1886(d)(5)(B) (42 U.S.C. 1395ww(d)(5)(B)), as amended by subsection (a), is amended by adding at the end the following new clauses:

"(v) In determining the adjustment with respect to a hospital for discharges occurring on or after October 1, 1997, the total number of interns and residents in either a hospital or non-hospital setting may not exceed the number of interns and residents in the hospital with respect to the hospital's cost reporting period beginning on or before December 31, 1996.

"(vi) For purposes of clause (ii)—

"(I) 'r' may not exceed the ratio of the number of interns and residents as determined under clause (v) with respect to the hospital for its most recent cost reporting period, to the hospital's available beds (as defined by the Secretary) during that cost reporting period,

"(II) for the hospital's first cost reporting period beginning on or after October 1, 1997, subject to the limits described in clauses (iv) and (v), the total number of full-time equivalent residents for payment purposes shall equal the average of the actual full-time equivalent resident count for the hospital's most recent cost reporting period and the preceding cost reporting period, and

"(III) for the cost reporting period beginning on or after October 1, 1998, and each subsequent cost reporting period, subject to the limits described in clauses (iv) and (v), the total number of full-time equivalent residents for payment purposes shall equal

the average of the actual full-time equivalent resident count for the cost reporting period and the preceding two cost reporting periods.

"(vii) If the hospital's fiscal year 1998 or later cost reporting period is not equal to twelve months, the Secretary shall make appropriate modifications to ensure that the average full-time equivalent residency count pursuant to subclauses (II) and (III) of clause (vi) is based on the equivalent of full twelve month cost reporting periods.

"(viii) The Secretary may establish rules, consistent with the policies in clauses (v) through (vii) and in subsection (h)(6)(A)(ii), with respect to the application of clauses (v) through (vii) in the case of medical residency training programs established on or after January 1, 1997.".

SEC. 10507. TREATMENT OF TRANSFER CASES.

(a) TRANSFERS TO PPS EXEMPT HOSPITALS AND SKILLED NURSING FACILITIES.—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) In carrying out this subparagraph, the Secretary shall treat the term 'transfer case' as including the case of an individual who, upon discharge from a subsection (d) hospital—

"(I) is admitted as an inpatient to a hospital or hospital unit that is not a subsection (d) hospital for the receipt of inpatient hospital services; or

"(II) is admitted to a skilled nursing facility or facility described in section 1861(y)(1) for the receipt of extended care services.".

(b) TRANSFERS FOR PURPOSES OF HOME HEALTH SERVICES.—Section 1886(d)(5)(I)(iii) (42 U.S.C. 1395ww(d)(5)(I)(iii)), as amended by subsection (a), is amended—

(1) in subclause (I), by striking "or";

(2) in subclause (II), by striking the period at the end and inserting "; or" and

(2) by adding at the end the following new subclause:

"(III) receives home health services from a home health agency, if such services relate to the condition or diagnosis for which such individual received inpatient hospital services from the subsection (d) hospital, and if such services are provided within an appropriate period as determined by the Secretary in regulations promulgated not later than September 1, 1998.".

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply with respect to discharges occurring on or after October 1, 1997.

(2) The amendment made by subsection (b) shall apply with respect to discharges occurring on or after October 1, 1998.

SEC. 10508. INCREASE BASE PAYMENT RATE TO PUERTO RICO HOSPITALS.

Section 1886(d)(9)(A) (42 U.S.C. 1395ww(d)(9)(A)) is amended—

(1) in the matter preceding clause (i), by striking "in a fiscal year beginning on or after October 1, 1987,",

(2) in clause (i), by striking "75 percent" and inserting, "for discharges beginning on or after October 1, 1997, 50 percent (and for discharges between October 1, 1987, and September 30, 1997, 75 percent)", and

(3) in clause (ii), by striking "25 percent" and inserting, "for discharges beginning in a fiscal year beginning on or after October 1, 1997, 50 percent (and for discharges between October 1, 1987 and September 30, 1997, 25 percent)".

CHAPTER 2—PAYMENT OF PPS EXEMPT HOSPITALS

SEC. 10511. PAYMENT UPDATE.

(a) IN GENERAL.—Section 1886(b)(3)(B) (42 U.S.C. 1395ww(b)(3)(B)) is amended—

(1) in clause (ii)—

(A) by striking "and" at the end of subclause (V),

(B) by redesignating subclause (VI) as subclause (VIII); and

(C) by inserting after subclause (V), the following subclauses:

"(VI) for fiscal year 1998, is 0 percent;

"(VII) for fiscal years 1999 through 2002, is the applicable update factor specified under clause (vi) for the fiscal year; and"; and

(2) by adding at the end the following new clause:

"(vi) For purposes of clause (ii)(VII) for a fiscal year, if a hospital's allowable operating costs of inpatient hospital services recognized under this title for the most recent cost reporting period for which information is available—

"(I) is equal to, or exceeds, 110 percent of the hospital's target amount (as determined under subparagraph (A)) for such cost reporting period, the applicable update factor specified under this clause is the market basket percentage;

"(II) exceeds 100 percent, but is less than 110 percent, of such target amount for the hospital, the applicable update factor specified under this clause is 0 percent or, if greater, the market basket percentage minus 0.25 percentage points for each percentage point by which such allowable operating costs (expressed as a percentage of such target amount) is less than 110 percent of such target amount;

"(III) is equal to, or less than 100 percent, but exceeds ⅔ of such target amount for the hospital, the applicable update factor specified under this clause is 0 percent or, if greater, the market basket percentage minus 2.5 percentage points; or

"(IV) does not exceed ⅔ of such target amount for the hospital, the applicable update factor specified under this clause is 0 percent.".

(b) NO EFFECT OF PAYMENT REDUCTION ON EXCEPTIONS AND ADJUSTMENTS.—Section 1886(b)(4)(A)(ii) (42 U.S.C. 1395ww(b)(4)(A)(ii)) is amended by adding at the end the following new sentence: "In making such reductions, the Secretary shall treat the applicable update factor described in paragraph (3)(B)(vi) for a fiscal year as being equal to the market basket percentage for that year.".

SEC. 10512. REDUCTIONS TO CAPITAL PAYMENTS FOR CERTAIN PPS-EXEMPT HOSPITALS AND UNITS.

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 are attributable to portions of cost reporting periods occurring during fiscal years 1998 through 2002 and that may be made under this title with respect to capital-related costs of inpatient hospital services of a hospital which is described in clause (i), (ii), or (iv) of subsection (d)(1)(B) or a unit described in the matter after clause (v) of such subsection, the Secretary shall reduce the amounts of such payments otherwise determined under this title by 10 percent.".

SEC. 10513. CAP ON TEFRA LIMITS.

Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)) is amended—

(1) in subparagraph (A) by striking "subparagraphs (C), (D), and (E)" and inserting "subparagraph (C) and succeeding subparagraphs", and

(2) by adding at the end the following:

"(F)(i) In the case of a hospital or unit that is within a class of hospital described in clause (ii), for cost reporting periods beginning on or after October 1, 1997, and before October 1, 2002, such target amount may not be greater than the 90th percentile of the target amounts for such hospitals within such class for cost reporting periods beginning during that fiscal year.

"(ii) For purposes of this subparagraph, each of the following shall be treated as a separate class of hospital:

"(I) Hospitals described in clause (i) of subsection (d)(1)(B) and psychiatric units described in the matter following clause (v) of such subsection.

"(II) Hospitals described in clause (ii) of such subsection and rehabilitation units described in the matter following clause (v) of such subsection.

"(III) Hospitals described in clause (iv) of such subsection.".

SEC. 10514. CHANGE IN BONUS AND RELIEF PAYMENTS.

(a) CHANGE IN BONUS PAYMENT.—Section 1886(b)(1)(A) (42 U.S.C. 1395ww(b)(1)(A)) is amended by striking all that follows "plus—" and inserting the following:

"(i) 10 percent of the amount by which the target amount exceeds the amount of the operating costs, or

"(ii) 1 percent of the operating costs, whichever is less;".

(b) CHANGE IN RELIEF PAYMENTS.—Section 1886(b)(1) (42 U.S.C. 1395ww(b)(1)) is amended—

(1) in subparagraph (B)—

(A) by striking "greater than the target amount" and inserting "greater than 110 percent of the target amount",

(B) by striking "exceed the target amount" and inserting "exceed 110 percent of the target amount",

(C) by striking "10 percent" and inserting "20 percent", and

(D) by redesignating such subparagraph as subparagraph (C); and

(2) by inserting after subparagraph (A) the following new subparagraph:

"(B) are greater than the target amount but do not exceed 110 percent of the target amount, the amount of the payment with respect to those operating costs payable under part A on a per discharge basis shall equal the target amount; or".

SEC. 10515. CHANGE IN PAYMENT AND TARGET AMOUNT FOR NEW PROVIDERS.

Section 1886(b) (42 U.S.C. 1395ww(b)) is amended—

(1) by inserting after paragraph (1) the following new paragraph:

"(2)(A) Notwithstanding paragraph (1), in the case of a hospital or unit that is within a class of hospital described in subparagraph (B) which first receives payments under this section on or after October 1, 1997—

"(i) for each of the first 2 full or partial cost reporting periods, the amount of the payment with respect to operating costs described in paragraph (1) under part A on a per discharge or per admission basis (as the case may be) is equal to the lesser of—

"(I) the amount of operating costs for such respective period, or

"(II) 150 percent of the national median of the operating costs for hospitals in the same class as the hospital for cost reporting periods beginning during the same fiscal year, as adjusted under subparagraph (C); and

"(ii) for purposes of computing the target amount for the subsequent cost reporting period, the target amount for the preceding cost reporting period is equal to the amount determined under clause (i) for such preceding period.

"(B) For purposes of this paragraph, each of the following shall be treated as a separate class of hospital:

"(i) Hospitals described in clause (i) of subsection (d)(1)(B) and psychiatric units described in the matter following clause (v) of such subsection.

"(ii) Hospitals described in clause (ii) of such subsection and rehabilitation units described in the matter following clause (v) of such subsection.

"(iii) A class of hospitals described in subsection (d)(1)(B)(iv) that the Secretary shall establish based upon a measure of case mix that takes into account acuity.

"(iv) Hospitals described in subsection (d)(1)(B)(iv) that are not within the class described in clause (iii).

"(C) In applying subparagraph (A)(i)(II) in the case of a hospital or unit, the Secretary shall provide for an appropriate adjustment to the labor-related portion of the amount determined under such subparagraph to take into account differences between average wage-related costs in the area of the hospital and the national average of such costs within the same class of hospital."; and

(2) in paragraph (3)(A), as amended in section 10513, by inserting "and in paragraph (2)(A)(ii)," before "for purposes of".

SEC. 10516. REBASING.

(a) OPTION OF REBASING FOR HOSPITALS IN OPERATION BEFORE 1990.—Section 1886(b)(3)(42 U.S.C. 1395ww(b)(3)), as amended in section 10513, is amended by adding at the end the following new subparagraph:

"(G)(i) In the case of a hospital (or unit described in the matter following clause (v) of subsection (d)(1)(B)) that received payment under this subsection for inpatient hospital services furnished during cost reporting periods before October 1, 1990, that is within a class of hospital described in clause (iii), and that elects (in a form and manner determined by the Secretary) this subparagraph to apply to the hospital, the target amount for the hospital's 12-month cost reporting period beginning during fiscal year 1998 is equal to the average described in clause (ii).

"(ii) The average described in this clause for a hospital or unit shall be determined by the Secretary as follows:

"(I) The Secretary shall determine the allowable operating costs for inpatient hospital services for the hospital or unit for each of the 5 cost reporting periods for which the Secretary has the most recent settled cost reports as of the date of the enactment of this subparagraph.

"(II) The Secretary shall increase the amount determined under subclause (I) for each cost reporting period by the applicable percentage increase under subparagraph (B)(ii) for each subsequent cost reporting period up to the cost reporting period described in clause (i).

"(III) The Secretary shall identify among such 5 cost reporting periods the cost reporting periods for which the amount determined under subclause (II) is the highest, and the lowest.

"(IV) The Secretary shall compute the averages of the amounts determined under subclause (II) for the 3 cost reporting periods not identified under subclause (III).

"(iii) For purposes of this subparagraph, each of the following shall be treated as a separate class of hospital:

"(I) Hospitals described in clause (i) of subsection (d)(1)(B) and psychiatric units described in the matter following clause (v) of such subsection.

"(II) Hospitals described in clause (ii) of such subsection and rehabilitation units described in the matter following clause (v) of such subsection.

"(III) Hospitals described in clause (iii) of such subsection.

"(IV) Hospitals described in clause (iv) of such subsection.

"(V) Hospitals described in clause (v) of such subsection.".

(b) CERTAIN LONG-TERM CARE HOSPITALS.—Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)), as amended by subsection (a), is amended by adding at the end the following new subparagraph:

"(H)(i) In the case of a qualified long-term care hospital (as defined in clause (ii)) that elects (in a form and manner determined by the Secretary) this subparagraph to apply to the hospital, the target amount for the hospital's 12-month cost reporting period beginning during fiscal year 1998 is equal to the allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for the hospital for the 12-month cost reporting period beginning during fiscal year 1996, increased by the applicable percentage increase for the cost reporting period beginning during fiscal year 1997.

"(ii) In clause (i), a 'qualified long-term care hospital' means, with respect to a cost reporting period, a hospital described in clause (iv) of subsection (d)(1)(B) during each of the 2 cost reporting periods for which the Secretary has the most recent settled cost reports as of the date of the enactment of this subparagraph for each of which—

"(I) the hospital's allowable operating costs of inpatient hospital services recognized under this title exceeded 115 percent of the hospital's target amount, and

"(II) the hospital would have a disproportionate patient percentage of at least 70 percent (as determined by the Secretary under subsection (d)(5)(F)(vi)) if the hospital were a subsection (d) hospital.".

(c) CERTAIN LONG-TERM CARE CANCER HOSPITALS.—

(1) IN GENERAL.—Section 1886(d)(1)(B)(iv) (42 U.S.C. 1395ww(d)(1)(B)(iv)) is amended by adding at the end the following: "a hospital that first received payment under this subsection in 1986 which has an average inpatient length of stay (as determined by the Secretary) of greater than 20 days and that has 80 percent or more of its annual total inpatient discharges with a principal diagnosis that reflects a finding of neoplastic disease, or".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to cost reporting periods beginning on or after the date of the enactment of this Act.

SEC. 10517. TREATMENT OF CERTAIN LONG-TERM CARE HOSPITALS.

(a) IN GENERAL.—Section 1886(d)(1)(B) (42 U.S.C. 1395ww(d)(1)(B)) is amended by adding at the end the following new sentence: "A hospital that was classified by the Secretary on or before September 30, 1995, as a hospital described in clause (iv) shall continue to be so classified notwithstanding that it is located in the same building as, or on the same campus as, another hospital.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to discharges occurring on or after October 1, 1995.

SEC. 10518. ELIMINATION OF EXEMPTIONS; REPORT ON EXCEPTIONS AND ADJUSTMENTS.

(a) ELIMINATION OF EXEMPTIONS.—

(1) IN GENERAL.—Section 1886(b)(4)(A)(i) (42 U.S.C. 1395ww(b)(4)(A)(i)) is amended by striking "exemption from, or an exception and adjustment to," and inserting "an exception and adjustment to" each place it appears.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to hospitals or units that first qualify as a hospital or unit described in section 1886(d)(1)(B) (42 U.S.C. 1395ww(d)(1)(B)) on or after October 1, 1997.

(b) REPORT.—The Secretary of Health and Human Services shall publish annually in the Federal Register a report describing the total amount of payments made to hospitals by reason of section 1886(b)(4) of the Social Security Act (42 U.S.C. 1395ww(b)(4)), as amended by subsection (a), for cost reporting periods ending during the previous fiscal year.

CHAPTER 3—PROVISIONS RELATED TO HOSPICE SERVICES

SEC. 10521. PAYMENTS FOR HOSPICE SERVICES.

(a) PAYMENT UPDATE.—Section 1814(i)(1)(C)(ii) (42 U.S.C. 1395f(i)(1)(C)(ii)) is amended—

(1) in subclause (V), by striking "and" at the end;

(2) by redesignating subclause (VI) as subclause (VII); and

(3) by inserting after subclause (V) the following new subclause:

"(VI) for each of fiscal years 1998 through 2002, the market basket percentage increase for the fiscal year involved minus 1.0 percentage points; and".

(b) REPORT.—Section 1814(i) (42 U.S.C. 1395f(i)) is amended by adding at the end the following new paragraph:

"(3) The Secretary shall provide for the collection of data, from hospice programs providing hospice care for which payment is made under this subsection, with respect to the costs for providing such care for each fiscal year beginning with fiscal year 1999.".

SEC. 10522. PAYMENT FOR HOME HOSPICE CARE BASED ON LOCATION WHERE CARE IS FURNISHED.

(a) IN GENERAL.—Section 1814(i)(2) (42 U.S.C. 1395f(i)(2)) is amended by adding at the end the following:

"(D) A hospice program shall submit claims for payment for hospice care furnished in an individual's home under this title only on the basis of the geographic location at which the service is furnished, as determined by the Secretary.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to cost reporting periods beginning on or after October 1, 1997.

SEC. 10523. HOSPICE CARE BENEFITS PERIODS.

(a) RESTRUCTURING OF BENEFIT PERIOD.—Section 1812 (42 U.S.C. 1395d) is amended, in subsections (a)(4) and (d)(1), by striking ", a subsequent period of 30 days, and a subsequent extension period" and inserting "and an unlimited number of subsequent periods of 60 days each".

(b) CONFORMING AMENDMENTS.—(1) Section 1812 (42 U.S.C. 1395d) is amended in subsection (d)(2)(B) by striking "90- or 30-day period or a subsequent extension period" and inserting "90-day period or a subsequent 60-day period".

(2) Section 1814(a)(7)(A) (42 U.S.C. 1395f(a)(7)(A)) is amended—

(A) in clause (i), by inserting "and" at the end;

(B) in clause (ii)—

(i) by striking "30-day" and inserting "60-day"; and

(ii) by striking ", and" at the end and inserting a period; and

(C) by striking clause (iii).

SEC. 10524. OTHER ITEMS AND SERVICES INCLUDED IN HOSPICE CARE.

Section 1861(dd)(1) (42 U.S.C. 1395x(dd)(1)) is amended—

(1) in subparagraph (G), by striking "and" at the end;

(2) in subparagraph (H), by striking the period at the end and inserting ", and"; and

(3) by inserting after subparagraph (H) the following:

"(I) any other item or service which is specified in the plan and for which payment may otherwise be made under this title.".

SEC. 10525. CONTRACTING WITH INDEPENDENT PHYSICIANS OR PHYSICIAN GROUPS FOR HOSPICE CARE SERVICES PERMITTED.

Section 1861(dd)(2) (42 U.S.C. 1395x(dd)(2)) is amended—

(1) in subparagraph (A)(ii)(I), by striking "(F),"; and

(2) in subparagraph (B)(i), by inserting "or, in the case of a physician described in subclause (I), under contract with" after "employed by".

SEC. 10526. WAIVER OF CERTAIN STAFFING REQUIREMENTS FOR HOSPICE CARE PROGRAMS IN NON-URBANIZED AREAS.

Section 1861(dd)(5) (42 U.S.C. 1395x(dd)(5)) is amended—

(1) in subparagraph (B), by inserting "or (C)" after "subparagraph (A)" each place it appears; and

(2) by adding at the end the following:

"(C) The Secretary may waive the requirements of paragraph (2)(A)(i) and (2)(A)(ii) for an agency or organization with respect to the services described in paragraph (1)(B) and, with respect to dietary counseling, paragraph (1)(H), if such agency or organization—

"(i) is located in an area which is not an urbanized area (as defined by the Bureau of Census), and

"(ii) demonstrates to the satisfaction of the Secretary that the agency or organization has been unable, despite diligent efforts, to recruit appropriate personnel.".

SEC. 10527. LIMITATION ON LIABILITY OF BENEFICIARIES FOR CERTAIN HOSPICE COVERAGE DENIALS.

Section 1879(g) (42 U.S.C. 1395pp(g)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and moving such subparagraphs 2 ems to the right;

(2) by striking "is," and inserting "is—";

(3) by making the remaining text of subsection (g), as amended, that follows "is—" a new paragraph (1) and indenting such paragraph 2 ems to the right;

(4) by striking the period at the end and inserting "; and"; and

(5) by adding at the end the following new paragraph:

"(2) with respect to the provision of hospice care to an individual, a determination that the individual is not terminally ill.".

SEC. 10528. EXTENDING THE PERIOD FOR PHYSICIAN CERTIFICATION OF AN INDIVIDUAL'S TERMINAL ILLNESS.

Section 1814(a)(7)(A)(i) (42 U.S.C. 1395f(a)(7)(A)(i)) is amended, in the matter following subclause (II), by striking ", not later than 2 days after hospice care is initiated (or, if each certify verbally not later than 2 days after hospice care is initiated, not later than 8 days after such care is initiated)" and inserting "at the beginning of the period".

SEC. 10529. EFFECTIVE DATE.

Except as otherwise provided in this chapter, the amendments made by this chapter apply to benefits provided on or after the date of the enactment of this chapter, regardless of whether or not an individual has made an election under section 1812(d) of the Social Security Act (42 U.S.C. 1395d(d)) before such date.

CHAPTER 4—MODIFICATION OF PART A HOME HEALTH BENEFIT

SEC. 10531. MODIFICATION OF PART A HOME HEALTH BENEFIT FOR INDIVIDUALS ENROLLED UNDER PART B.

(a) IN GENERAL.—Section 1812 (42 U.S.C. 1395d) is amended—

(1) in subsection (a)(3), by striking "home health services" and inserting "for individuals not enrolled in part B, home health services, and for individuals so enrolled, part A home health services (as defined in subsection (g))";

(2) by redesignating subsection (g) as subsection (h); and

(3) by inserting after subsection (f) the following new subsection:

"(g)(1) For purposes of this section, the term 'part A home health services' means—

"(A) for services furnished during each year beginning with 1998 and ending with 2002, home health services subject to the transition reduction applied under paragraph (2)(C) for services furnished during the year, and

"(B) for services furnished on or after January 1, 2003, post-institutional home health services for up to 100 visits during a home health spell of illness.

"(2) For purposes of paragraph (1)(B), the Secretary shall specify, before the beginning of each year beginning with 1998 and ending with 2002, a transition reduction in the home health services benefit under this part as follows:

"(A) The Secretary first shall estimate the amount of payments that would have been made under this part for home health services furnished during the year if—

"(i) part A home health services were all home health services, and

"(ii) part A home health services were limited to services described in paragraph (1)(B).

"(B)(i) The Secretary next shall compute a transfer reduction amount equal to the appropriate proportion (specified under clause (ii)) of the amount by which the amount estimated under subparagraph (A)(i) for the year exceeds the amount estimated under subparagraph (A)(ii) for the year.

"(ii) For purposes of clause (i), the 'appropriate proportion' is equal to—

"(I) 1/6 for 1998,

"(II) 2/6 for 1999,

"(III) 3/6 for 2000,

"(IV) 4/6 for 2001, and

"(V) 5/6 for 2002.

"(C) The Secretary shall establish a transition reduction by specifying such a visit limit (during a home health spell of illness) or such a post-institutional limitation on home health services furnished under this part during the year as the Secretary estimates will result in a reduction in the amount of payments that would otherwise be made under this part for home health services furnished during the year equal to the transfer amount computed under subparagraph (B)(i) for the year.

"(3) Payment under this part for home health services furnished an individual enrolled under part B—

"(A) during a year beginning with 1998 and ending with 2003, may not be made for services that are not within the visit limit or other limitation specified by the Secretary under the transition reduction under paragraph (3)(C) for services furnished during the year; or

"(B) on or after January 1, 2004, may not be made for home health services that are not post-institutional home health services or for post-institutional furnished to the individual after such services have been furnished to the individual for a total of 100 visits during a home health spell of illness.

"(4) With respect to computing the monthly actuarial rate for enrollees age 65 and over for purposes of applying section 1839, such rate shall be computed as though any reference in a previous provision of this subsection to 2002 or 2003 is a reference to the succeeding year and as through the appropriate proportion described in paragraph (3)(B)(ii) were equal to—

"(A) 1/7 for 1998,

"(B) 2/7 for 1999,

"(C) 3/7 for 2000,

"(D) 4/7 for 2001,

"(E) 5/7 for 2002, and

"(F) 6/7 for 2003.".

(b) POST-INSTITUTIONAL HOME HEALTH SERVICES DEFINED.—Section 1861 (42 U.S.C. 1395x), as amended by section 10105(a)(1)(B) is amended by adding at the end the following:

"Post-Institutional Home Health Services; Home Health Spell of Illness

"(rr)(1) The term 'post-institutional home health services' means home health services furnished to an individual—

"(A) after discharge from a hospital or rural primary care hospital in which the individual was an inpatient for not less than 3 consecutive days before such discharge if such home health services were initiated within 14 days after the date of such discharge; or

"(B) after discharge from a skilled nursing facility in which the individual was provided post-hospital extended care services if such home health services were initiated within 14 days after the date of such discharge.

"(2) The term 'home health spell of illness' with respect to any individual means a period of consecutive days—

"(A) beginning with the first day (not included in a previous home health spell of illness) (i) on which such individual is furnished post-institutional home health services, and (B) which occurs in a month for which the individual is entitled to benefits under part A, and

"(B) ending with the close of the first period of 60 consecutive days thereafter on each of which the individual is neither an inpatient of a hospital or rural primary care hospital nor an inpatient of a facility described in section 1819(a)(1) or subsection (y)(1) nor provided home health services.".

(c) MAINTAINING APPEAL RIGHTS FOR HOME HEALTH SERVICES.—Section 1869(b)(2)(B) (42 U.S.C. 1395ff(b)(2)(B)) is amended by inserting "(or $100 in the case of home health services)" after "$500".

(d) MAINTAINING SEAMLESS ADMINISTRATION THROUGH FISCAL INTERMEDIARIES.—Section 1842(b)(2) (42 U.S.C. 1395u(b)(2)) is amended by adding at the end the following:

"(E) With respect to the payment of claims for home health services under this part that, but for the amendments made by section 10531 of the Balanced Budget Act of 1997, would be payable under part A instead of under this part, the Secretary shall continue administration of such claims through fiscal intermediaries under section 1816.".

(e) EFFECTIVE DATE.—The amendments made by this section apply to services furnished on or after January 1, 1998. For purpose of applying such amendments, any home health spell of illness that began, but not end, before such date shall be considered to have begun as of such date.

CHAPTER 5—OTHER PAYMENT PROVISIONS

SEC. 10541. REDUCTIONS IN PAYMENTS FOR ENROLLEE BAD DEBT.

Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

"(T) In determining such reasonable costs for hospitals, the amount of bad debts otherwise treated as allowable costs which are attributable to the deductibles and coinsurance amounts under this title shall be reduced—

"(i) for cost reporting periods beginning during fiscal year 1998, by 25 percent of such amount otherwise allowable,

"(ii) for cost reporting periods beginning during fiscal year 1999, by 40 percent of such amount otherwise allowable, and

"(iii) for cost reporting periods beginning during a subsequent fiscal year, by 50 percent of such amount otherwise allowable.".

SEC. 10542. PERMANENT EXTENSION OF HEMOPHILIA PASS-THROUGH.

Effective October 1, 1997, section 6011(d) of OBRA-1989 (as amended by section 13505 of OBRA-1993) is amended by striking "and shall expire September 30, 1994".

SEC. 10543. REDUCTION IN PART A MEDICARE PREMIUM FOR CERTAIN PUBLIC RETIREES.

(a) IN GENERAL.—Section 1818(d) (42 U.S.C. 1395i-2(d)) is amended—

(1) in paragraph (2), by striking "paragraph (4)" and inserting "paragraphs (4) and (5)"; and

(2) by adding at the end the following new paragraph:

"(5)(A) The amount of the monthly premium shall be zero in the case of an individual who is a person described in subparagraph (B) for a month, if—

"(i) the individual's premium under this section for the month is not (and will not be) paid for, in whole or in part, by a State (under title XIX or otherwise), a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions thereof; and

"(ii) in each of 60 months before such month, the individual was enrolled in this part under this section and the payment of the individual's premium under this section for the month was not paid for, in whole or in part, by a State (under title XIX or otherwise), a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions thereof.

"(B) A person described in this subparagraph for an month is a person who establishes to the satisfaction of the Secretary that, as of the last day of the previous month—

"(i)(I) the person was receiving cash benefits under a qualified State or local government retirement system (as defined in subparagraph (C)) on the basis of the person's employment in one or more positions covered under any such system, and (II) the person would have at least 40 quarters of coverage under title II if remuneration for medicare qualified government employment (as defined in paragraph (1) of section 210(p), but determined without regard to paragraph (3) of such section) paid to such person were treated as wages paid to such person and credited for purposes of determining quarters of coverage under section 213;

"(ii)(I) the person was married (and had been married for the previous 1-year period) to an individual who is described in clause (i), or (II) the person met the requirement of clause (i)(II) and was married (and had been married for the previous 1-year period) to an individual described in clause (i)(I);

"(iii) the person had been married to an individual for a period of at least 1 year (at the time of such individual's death) if (I) the individual was described in clause (i) at the time of the individual's death, or (II) the person met the requirement of clause (i)(II) and the individual was described in clause (i)(I) at the time of the individual's death; or

"(iv) the person is divorced from an individual and had been married to the individual for a period of at least 10 years (at the time of the divorce) if (I) the individual was described in clause (i) at the time of the divorce, or (II) the person met the requirement of clause (i)(II) and the individual was described in clause (i)(I) at the time of the divorce.

"(C) For purposes of subparagraph (B)(i)(I), the term 'qualified State or local government retirement system' means a retirement system that—

"(i) is established or maintained by a State or political subdivision thereof, or an agency or instrumentality of one or more States or political subdivisions thereof;

"(ii) covers positions of some or all employees of such a State, subdivision, agency, or instrumentality; and

"(iii) does not adjust cash retirement benefits based on eligibility for a reduction in premium under this paragraph.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to premiums for months beginning with January 1998, and months before such month may be taken into account for purposes of meeting the requirement of section 1818(d)(5)(B)(iii) of the Social Security Act, as added by subsection (a).

Subtitle G—Provisions Relating to Part B Only

CHAPTER 1—PHYSICIANS' SERVICES

SEC. 10601. ESTABLISHMENT OF SINGLE CONVERSION FACTOR FOR 1998.

(a) IN GENERAL.—Section 1848(d)(1) (42 U.S.C. 1395w-4(d)(1)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D), and

(2) by inserting after subparagraph (B) the following:

"(C) SPECIAL RULES FOR 1998.—The single conversion factor for 1998 under this subsection shall be the conversion factor for primary care services for 1997, increased by the Secretary's estimate of the weighted average of the three separate updates that would otherwise occur were it not for the enactment of chapter 1 of subtitle G of title X of the Balanced Budget Act of 1997.".

(b) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w-4) is amended—

(1) by striking "(or factors)" each place it appears in subsection (d)(1)(A) and (d)(1)(D)(ii) (as redesignated by subsection (a)(1)),

(2) in subsection (d)(1)(A), by striking "or updates",

(3) in subsection (d)(1)(D) (as redesignated by subsection (a)(1)), by striking "(or updates)" each place it appears, and

(4) in subsection (i)(1)(C), by striking "conversion factors" and inserting "the conversion factor".

SEC. 10602. ESTABLISHING UPDATE TO CONVERSION FACTOR TO MATCH SPENDING UNDER SUSTAINABLE GROWTH RATE.

(a) UPDATE.—

(1) IN GENERAL.—Section 1848(d)(3) (42 U.S.C. 1395w-4(d)(3)) is amended to read as follows:

"(3) UPDATE.—

"(A) IN GENERAL.—Unless otherwise provided by law, subject to subparagraph (D) and the budget-neutrality factor determined by the Secretary under subsection (c)(2)(B)(ii), the update to the single conversion factor established in paragraph (1)(C) for a year beginning with 1999 is equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage increase in the MEI (as defined in section 1842(i)(3)) for the year (divided by 100), and

"(ii) 1 plus the Secretary's estimate of the update adjustment factor for the year (divided by 100),

minus 1 and multiplied by 100.

"(B) UPDATE ADJUSTMENT FACTOR.—For purposes of subparagraph (A)(ii), the 'update adjustment factor' for a year is equal to the quotient (as estimated by the Secretary) of—

"(i) the difference between (I) the sum of the allowed expenditures for physicians' services (as determined under subparagraph (C)) during the period beginning July 1, 1997, and ending on June 30 of the year involved, and (II) the sum of the amount of actual expenditures for physicians' services furnished during the period beginning July 1, 1997, and ending on June 30 of the preceding year; divided by

"(ii) the actual expenditures for physicians' services for the 12-month period ending on June 30 of the preceding year, increased by the sustainable growth rate under subsection (f) for the fiscal year which begins during such 12-month period.

"(C) DETERMINATION OF ALLOWED EXPENDITURES.—For purposes of this paragraph, the allowed expenditures for physicians' services for the 12-month period ending with June 30 of—

"(i) 1997 is equal to the actual expenditures for physicians' services furnished during such 12-month period, as estimated by the Secretary; or

"(ii) a subsequent year is equal to the allowed expenditures for physicians' services for the previous year, increased by the sustainable growth rate under subsection (f) for the fiscal year which begins during such 12-month period.

"(D) RESTRICTION ON VARIATION FROM MEDICARE ECONOMIC INDEX.—Notwithstanding the amount of the update adjustment factor determined under subparagraph (B) for a year, the update in the conversion factor under this paragraph for the year may not be—

"(i) greater than 100 times the following amount: (1.03 + (MEI percentage/100)) − 1; or

"(ii) less than 100 times the following amount: (0.93 + (MEI percentage/100)) −1,

where 'MEI percentage' means the Secretary's estimate of the percentage increase in the MEI (as defined in section 1842(i)(3)) for the year involved.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to the update for years beginning with 1999.

(b) ELIMINATION OF REPORT.—Section 1848(d) (42 U.S.C. 1395w-4(d)) is amended by striking paragraph (2).

SEC. 10603. REPLACEMENT OF VOLUME PERFORMANCE STANDARD WITH SUSTAINABLE GROWTH RATE.

(a) IN GENERAL.—Section 1848(f) (42 U.S.C. 1395w-4(f)) is amended by striking paragraphs (2) through (5) and inserting the following:

"(2) SPECIFICATION OF GROWTH RATE.—The sustainable growth rate for all physicians' services for a fiscal year (beginning with fiscal year 1998) shall be equal to the product of—

"(A) 1 plus the Secretary's estimate of the weighted average percentage increase (divided by 100) in the fees for all physicians' services in the fiscal year involved,

"(B) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than MedicarePlus plan enrollees) from the previous fiscal year to the fiscal year involved,

"(C) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from the previous fiscal year to the fiscal year involved, and

"(D) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in the fiscal year (compared with the previous fiscal year) which will result from changes in law and regulations, determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services resulting from changes in the update to the conversion factor under subsection (d)(3),

minus 1 and multiplied by 100.

"(3) DEFINITIONS.—In this subsection:

"(A) SERVICES INCLUDED IN PHYSICIANS' SERVICES.—The term 'physicians' services' includes other items and services (such as clinical diagnostic laboratory tests and radiology services), specified by the Secretary, that are commonly performed or furnished by a physician or in a physician's office, but does not include services furnished to a MedicarePlus plan enrollee.

"(B) MEDICAREPLUS PLAN ENROLLEE.—The term 'MedicarePlus plan enrollee' means, with respect to a fiscal year, an individual enrolled under this part who has elected to receive benefits under this title for the fiscal year through a MedicarePlus plan offered under part C, and also includes an individual who is receiving benefits under this part through enrollment with an eligible organization with a risk-sharing contract under section 1876.".

(b) CONFORMING AMENDMENTS.—Section 1848(f) (42 U.S.C. 1395w-4(f)) is amended—

(1) in the heading, by striking "VOLUME PERFORMANCE STANDARD RATES OF INCREASE" and inserting "SUSTAINABLE GROWTH RATE"; and

(2) in paragraph (1)—

(A) in the heading, by striking "VOLUME PERFORMANCE STANDARD RATES OF INCREASE" and inserting "SUSTAINABLE GROWTH RATE",

(B) by striking subparagraphs (A) and (B); and

(C) in paragraph (1)(C)—

(i) in the heading, by striking "PERFORMANCE STANDARD RATES OF INCREASE" and inserting "SUSTAINABLE GROWTH RATE";

(ii) in the first sentence, by striking "with 1991), the performance standard rates of increase" and all that follows through the first period and inserting "with 1999), the sustainable growth rate for the fiscal year beginning in that year."; and

(iii) in the second sentence, by striking "January 1, 1990, the performance standard rate of increase under subparagraph (D) for fiscal year 1990" and inserting "January 1, 1999, the sustainable growth rate for fiscal year 1999".

SEC. 10604. PAYMENT RULES FOR ANESTHESIA SERVICES.

(a) IN GENERAL.—Section 1848(d)(1) (42 U.S.C. 1395w-4(d)(1)), as amended by section 10601(a), is amended—

(1) in subparagraph (C), striking "The single" and inserting "Except as provided in subparagraph (D), the single";

(2) by redesignating subparagraph (D) as subparagraph (E); and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) SPECIAL RULES FOR ANESTHESIA SERVICES.—The separate conversion factor for anesthesia services for a year shall be equal to 46 percent of the single conversion factor established for other physicians' services, except as adjusted for changes in work, practice expense, or malpractice relative value units. ".

(b) CLASSIFICATION OF ANESTHESIA SERVICES.—The first sentence of section 1848(j)(1) (42 U.S.C. 1395w-4(j)(1)) is amended—

(1) by striking "and including anesthesia services"; and

(2) by inserting before the period the following: "(including anesthesia services)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1998.

SEC. 10605. IMPLEMENTATION OF RESOURCE-BASED PHYSICIAN PRACTICE EXPENSE.

(a) 1-YEAR DELAY IN IMPLEMENTATION.—Section 1848(c) (42 U.S.C. 1395w-4(c)) is amended—

(1) in paragraph (2)(C)(ii), in the matter before subclause (I) and after subclause (II), by striking "1998" and inserting "1999" each place it appears; and

(2) in paragraph (3)(C)(ii), by striking "1998" and inserting "1999".

(b) PHASED-IN IMPLEMENTATION.—Section 1848(c)(2)(C)(ii) (42 U.S.C. 1395w-4(c)(2)(C)(ii)) is further amended—

(1) in subparagraph (C)(ii), in the matter following subclause (II), by inserting ", to the extent provided under subparagraph (G)," after "based", and

(2) by adding at the end the following new subparagraph:

"(G) TRANSITIONAL RULE FOR RESOURCE-BASED PRACTICE EXPENSE UNITS.—In applying subparagraph (C)(ii) for 1999, 2000, 2001, and any subsequent year, the number of units under such subparagraph shall be based 75 percent, 50 percent, 25 percent, and 0 percent, respectively, on the practice expense relative value units in effect in 1998 (or the Secretary's imputation of such units for new or revised codes) and the remainder on the relative value expense resources involved in furnishing the service.".

SEC. 10606. DISSEMINATION OF INFORMATION ON HIGH PER DISCHARGE RELATIVE VALUES FOR IN-HOSPITAL PHYSICIANS' SERVICES.

(a) DETERMINATION AND NOTICE CONCERNING HOSPITAL-SPECIFIC PER DISCHARGE RELATIVE VALUES.—

(1) IN GENERAL.—For 1999 and 2001 the Secretary of Health and Human Services shall determine for each hospital—

(A) the hospital-specific per discharge relative value under subsection (b); and

(B) whether the hospital-specific relative value is projected to be excessive (as determined based on such value represented as a percentage of the median of hospital-specific per discharge relative values determined under subsection (b)).

(2) NOTICE TO MEDICAL STAFFS AND CARRIERS.—The Secretary shall notify the medical executive committee of each hospital identifies under paragraph (1)(B) as having an excessive hospital-specific relative value, of the determinations made with respect to the medical staff under paragraph (1).

(b) DETERMINATION OF HOSPITAL-SPECIFIC PER DISCHARGE RELATIVE VALUES.—

(1) IN GENERAL.—For purposes of this section, the hospital-specific per discharge relative value for the medical staff of a hospital (other than a teaching hospital) for a year, shall be equal to the average per discharge relative value (as determined under section 1848(c)(2) of the Social Security Act) for physicians' services furnished to inpatients of the hospital by the hospital's medical staff (excluding interns and residents) during the second year preceding that calendar year, adjusted for variations in case-mix and disproportionate share status among hospitals (as determined by the Secretary under paragraph (3)).

(2) SPECIAL RULE FOR TEACHING HOSPITALS.—The hospital-specific relative value projected for a teaching hospital in a year shall be equal to the sum of—

(A) the average per discharge relative value (as determined under section 1848(c)(2) of such Act) for physicians' services furnished to inpatients of the hospital by the hospital's medical staff (excluding interns and residents) during the second year preceding that calendar year, and

(B) the equivalent per discharge relative value (as determined under such section) for physicians' services furnished to inpatients of the hospital by interns and residents of the hospital during the second year preceding that calendar year, adjusted for variations in case-mix, disproportionate share status, and teaching status among hospitals (as determined by the Secretary under paragraph (3)).

The Secretary shall determine the equivalent relative value unit per discharge for interns and residents based on the best available data and may make such adjustment in the aggregate.

(3) ADJUSTMENT FOR TEACHING AND DISPROPORTIONATE SHARE HOSPITALS.—The Secretary shall adjust the allowable per discharge relative values otherwise determined under this subsection to take into account the needs of teaching hospitals and hospitals receiving additional payments under subparagraphs (F) and (G) of section 1886(d)(5) of the Social Security Act. The adjustment for teaching status or disproportionate share shall not be less than zero.

(c) DEFINITIONS.—For purposes of this section:

(1) HOSPITAL.—The term "hospital" means a subsection (d) hospital as defined in section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) .

(2) 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 the bylaws, rules, and regulations, the individual has clinical privileges granted by the hospital's governing body, and

(iii) under the clinical privileges, the individual may provide physicians" services independently within the scope of the individual's clinical privileges, or

(B) if the physician provides at least one service to an individual entitled to benefits under this title in that hospital.

(3) PHYSICIANS' SERVICES.—The term "physicians" services" means the services described in section 1848(j)(3) of the Social Security Act (42 U.S.C. 1395w-4(j)(3)).

(4) RURAL AREA; URBAN AREA.—The terms "rural area" and "urban area" have the meaning given those terms under section 1886(d)(2)(D) of such Act (42 U.S.C. 1395ww(d)(2)(D)).

(5) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services .

(6) TEACHING HOSPITAL.—The term "teaching hospital" means a hospital which has a teaching program approved as specified in section 1861(b)(6) of the Social Security Act (42 U.S.C. 1395x(b)(6)).

SEC. 10607. NO X-RAY REQUIRED FOR CHIROPRACTIC SERVICES.

(a) IN GENERAL.—Section 1861(r)(5) (42 U.S.C. 1395x(r)(5)) is amended by striking "demonstrated by X-ray to exist".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to services furnished on or after January 1, 1998.

SEC. 10608. TEMPORARY COVERAGE RESTORATION FOR PORTABLE ELECTROCARDIOGRAM TRANSPORTATION.

(a) IN GENERAL.—Effective for electrocardiogram tests furnished during 1998, the Secretary of Health and Human Services shall restore separate payment, under part B of title XVIII of the Social Security Act, for the transportation of electrocardiogram equipment (HCPCS code R0076) based upon the status code and relative value units established for such service as of December 31, 1996.

(b) DETERMINATION.—By not later than July 1, 1998, the Secretary of Health and Human Services shall determine, taking into account the study of coverage of portable electrocardiogram transportation conducted by the Comptroller General and other relevant information, including information submitted by interested parties, whether coverage of portable electrocardiogram transportation should be provided under part B of title XVIII of the Social Security Act.

CHAPTER 2—OTHER PAYMENT PROVISIONS

SEC. 10611. PAYMENTS FOR DURABLE MEDICAL EQUIPMENT.

(a) REDUCTION IN PAYMENT AMOUNTS FOR ITEMS OF DURABLE MEDICAL EQUIPMENT.—

(1) FREEZE IN UPDATE FOR COVERED ITEMS.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

(A) by striking "and" at the end of subparagraph (A);

(B) in subparagraph (B)—

(i) by striking "a subsequent year" and inserting "1993, 1994, 1995, 1996, and 1997", and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(C) for each of the years 1998 through 2002, 0 percentage points; and

"(D) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year.".

(2) UPDATE FOR ORTHOTICS AND PROSTHETICS.—Section 1834(h)(4)(A) (42 U.S.C. 1395m(h)(4)(A)) is amended—

(A) by striking ", and" at the end of clause (iii) and inserting a semicolon;

(B) in clause (iv), by striking "a subsequent year" and inserting "1996 and 1997", and

(C) by adding at the end the following new clauses:

"(v) for each of the years 1998 through 2002, 1 percent, and

"(vi) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period ending with June of the previous year;".

(c) PAYMENT FREEZE FOR PARENTERAL AND ENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT.—In determining the amount of payment under part B of title XVIII of the Social Security Act with respect to parenteral and enteral nutrients, supplies, and equipment during each of the years 1998 through 2002, the charges determined to be reasonable with respect to such nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such nutrients, supplies, and equipment during 1995.

SEC. 10612. OXYGEN AND OXYGEN EQUIPMENT.

Section 1834(a)(9)(C) (42 U.S.C. 1395m(a)(9)(C)) is amended—

(1) by striking "and" at the end of clause (iii);

(2) in clause (iv)—

(A) by striking "a subsequent year" and inserting "1993, 1994, 1995, 1996, and 1997", and

(B) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new clauses:

"(v) in each of the years 1998 through 2002, is 80 percent of the national limited monthly payment rate computed under subparagraph (B) for the item for the year; and

"(vi) in a subsequent year, is the national limited monthly payment rate computed under subparagraph (B) for the item for the year.".

SEC. 10613. REDUCTION IN UPDATES TO PAYMENT AMOUNTS FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) CHANGE IN UPDATE.—Section 1833(h)(2)(A)(ii)(IV) (42 U.S.C. 1395l(h)(2)(A)(ii)(IV)) is amended by inserting "and 1998 through 2002" after "1995".

(b) LOWERING CAP ON PAYMENT AMOUNTS.—Section 1833(h)(4)(B) (42 U.S.C. 1395l(h)(4)(B)) is amended—

(1) in clause (vi), by striking "and" at the end;

(2) in clause (vii)—

(A) by inserting "and before January 1, 1998," after "1995,", and

(B) by striking the period at the end and inserting ", and"; and

(3) by adding at the end the following new clause:

"(viii) after December 31, 1997, is equal to 72 percent of such median.".

SEC. 10614. SIMPLIFICATION IN ADMINISTRATION OF LABORATORY TESTS.

(a) SELECTION OF REGIONAL CARRIERS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall—

(A) divide the United States into no more than 5 regions, and

(B) designate a single carrier for each such region,

for the purpose of payment of claims under part B of title XVIII of the Social Security Act with respect to clinical diagnostic laboratory tests (other than for independent physician offices) furnished on or after such date (not later than January 1, 1999) as the Secretary specifies.

(2) DESIGNATION.—In designating such carriers, the Secretary shall consider, among other criteria—

(A) a carrier's timeliness, quality, and experience in claims processing, and

(B) a carrier's capacity to conduct electronic data interchange with laboratories and data matches with other carriers.

(3) SINGLE DATA RESOURCE.—The Secretary may select one of the designated carriers to serve as a central statistical resource for all claims information relating to such clinical diagnostic laboratory tests handled by all the designated carriers under such part.

(4) ALLOCATION OF CLAIMS.—The allocation of claims for clinical diagnostic laboratory tests to particular designated carriers shall be based on whether a carrier serves the geographic area where the laboratory specimen was collected or other method specified by the Secretary.

(b) ADOPTION OF UNIFORM POLICIES FOR CLINICAL LABORATORY TESTS.—

(1) IN GENERAL.—Not later than July 1, 1998, the Secretary shall first adopt, consistent with paragraph (2), uniform coverage, administration, and payment policies for clinical diagnostic laboratory tests under part B of title XVIII of the Social Security Act, using a negotiated rulemaking process under subchapter III of chapter 5 of title 5, United States Code.

(2) CONSIDERATIONS IN DESIGN OF UNIFORM POLICIES.—The policies under paragraph (1) shall be designed to promote uniformity and program integrity and reduce administrative burdens with respect to clinical diagnostic laboratory tests payable under such part in connection with the following:

(A) Beneficiary information required to be submitted with each claim or order for laboratory tests.

(B) Physicians' obligations regarding documentation requirements and recordkeeping.

(C) Procedures for filing claims and for providing remittances by electronic media.

(D) The documentation of medical necessity.

(E) Limitation on frequency of coverage for the same tests performed on the same individual.

(3) CHANGES IN CARRIER REQUIREMENTS PENDING ADOPTION OF UNIFORM POLICY.—During the period that begins on the date of the enactment of this Act and ends on the date the Secretary first implements uniform policies pursuant to regulations promulgated under this subsection, a carrier under such part may implement changes relating to requirements for the submission of a claim for clinical diagnostic laboratory tests.

(4) USE OF INTERIM REGIONAL POLICIES.—After the date the Secretary first implements such uniform policies, the Secretary shall permit any carrier to develop and implement interim policies of the type described in paragraph (1), in accordance with guidelines established by the Secretary, in cases in which a uniform national policy has not been established under this subsection and there is a demonstrated need for a policy to respond to aberrant utilization or provision of unnecessary services. Except as the Secretary specifically permits, no policy shall be implemented under this paragraph for a period of longer than 2 years.

(5) INTERIM NATIONAL POLICIES.—After the date the Secretary first designates regional carriers under subsection (a), the Secretary shall establish a process under which designated carriers can collectively develop and implement interim national standards of the type described in paragraph (1). No such policy shall be implemented under this paragraph for a period of longer than 2 years.

(6) BIENNIAL REVIEW PROCESS.—Not less often than once every 2 years, the Secretary shall solicit and review comments regarding changes in the uniform policies established under this subsection. As part of such biennial review process, the Secretary shall specifically review and consider whether to incorporate or supersede interim, regional, or national policies developed under paragraph (4) or (5). Based upon such review, the Secretary may provide for appropriate changes in the uniform policies previously adopted under this subsection.

(7) NOTICE.— Before a carrier implements a change or policy under paragraph (3), (4), or

(5), the carrier shall provide for advance notice to interested parties and a 45-day period in which such parties may submit comments on the proposed change.

(c) INCLUSION OF LABORATORY REPRESENTATIVE ON CARRIER ADVISORY COMMITTEES.—The Secretary shall direct that any advisory committee established by such a carrier, to advise with respect to coverage, administration or payment policies under part B of title XVIII of the Social Security Act, shall include an individual to represent the interest and views of independent clinical laboratories and such other laboratories as the Secretary deems appropriate. Such individual shall be selected by such committee from among nominations submitted by national and local organizations that represent independent clinical laboratories.

SEC. 10615. UPDATES FOR AMBULATORY SURGICAL SERVICES.

Section 1833(i)(2)(C) (42 U.S.C. 1395l(i)(2)(C)) is amended by striking all that follows "shall be increased" and inserting the following: "as follows:

"(i) For fiscal years 1996 and 1997, by the percentage increase in the consumer price index for all urban consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with the midpoint of the year involved.

"(ii) For each of fiscal years 1998 through 2002 by such percentage increase minus 2.0 percentage points.

"(iii) For each succeeding fiscal year by such percentage increase.".

SEC. 10616. REIMBURSEMENT FOR DRUGS AND BIOLOGICALS.

(a) IN GENERAL.—Section 1842 (42 U.S.C. 1395u) is amended by inserting after subsection (n) the following new subsection:

"(o) If a physician's, supplier's, or any other person's bill or request for payment for services includes a charge for a drug or biological for which payment may be made under this part and the drug or biological is not paid on a cost or prospective payment basis as otherwise provided in this part, the amount payable for the drug or biological is equal to 95 percent of the average wholesale price.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to drugs and biologicals furnished on or after January 1, 1998.

SEC. 10617. COVERAGE OF ORAL ANTI-NAUSEA DRUGS UNDER CHEMOTHERAPEUTIC REGIMEN.

(a) IN GENERAL.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)), as amended, is further amended—

(1) by striking "and" at the end of subparagraph (R); and

(2) by inserting after subparagraph (S) the following new subparagraph:

"(T) an oral drug (which is approved by the Federal Food and Drug Administration) prescribed for use as an acute anti-emetic used as part of an anticancer chemotherapeutic regimen if the drug is administered by a physician (or as prescribed by a physician)—

"(i) for use immediately before, at, or within 48 hours after the time of the administration of the anticancer chemotherapeutic agent; and

"(ii) as a full replacement for the anti-emetic therapy which would otherwise be administered intravenously.".

(b) PAYMENT LEVELS.—Section 1834 (42 U.S.C. 1395m), as amended by sections 10421(a)(2) and 10431(b)(2), is amended by adding at the end the following new subsection:

"(m) SPECIAL RULES FOR PAYMENT FOR ORAL ANTI-NAUSEA DRUGS.—

"(1) LIMITATION ON PER DOSE PAYMENT BASIS.—Subject to paragraph (2), the per dose payment basis under this part for oral anti-nausea drugs (as defined in paragraph (3)) administered during a year shall not exceed 90 percent of the average per dose payment basis for the equivalent intravenous anti-emetics administered during the year, as computed based on the payment basis applied during 1996.

"(2) AGGREGATE LIMIT.—The Secretary shall make such adjustment in the coverage of, or payment basis for, oral anti-nausea drugs so that coverage of such drugs under this part does not result in any increase in aggregate payments per capita under this part above the levels of such payments per capita that would otherwise have been made if there were no coverage for such drugs under this part.

"(3) ORAL ANTI-NAUSEA DRUGS DEFINED.—For purposes of this subsection, the term 'oral anti-nausea drugs' means drugs for which coverage is provided under this part pursuant to section 1861(s)(2)(P).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

SEC. 10618. RURAL HEALTH CLINIC SERVICES.

(a) PER-VISIT PAYMENT LIMITS FOR PROVIDER-BASED CLINICS.—

(1) EXTENSION OF LIMIT.—

(A) IN GENERAL.—The matter in section 1833(f) (42 U.S.C. 1395l(f)) preceding paragraph (1) is amended by striking "independent rural health clinics" and inserting "rural health clinics (other than such clinics in rural hospitals with less than 50 beds)".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) applies to services furnished after 1997.

(2) TECHNICAL CLARIFICATION.—Section 1833(f)(1) (42 U.S.C. 1395l(f)(1)) is amended by inserting "per visit" after "$46".

(b) ASSURANCE OF QUALITY SERVICES.—

(1) IN GENERAL.—Subparagraph (I) of the first sentence of section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended to read as follows:

"(I) has a quality assessment and performance improvement program, and appropriate procedures for review of utilization of clinic services, as the Secretary may specify,".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on January 1, 1998.

(c) WAIVER OF CERTAIN STAFFING REQUIREMENTS LIMITED TO CLINICS IN PROGRAM.—

(1) IN GENERAL.—Section 1861(aa)(7)(B) (42 U.S.C. 1395x(aa)(7)(B)) is amended by inserting before the period at the end the following: ", or if the facility has not yet been determined to meet the requirements (including subparagraph (J) of the first sentence of paragraph (2)) of a rural health clinic".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) applies to waiver requests made after 1997.

(d) REFINEMENT OF SHORTAGE AREA REQUIREMENTS.—

(1) DESIGNATION REVIEWED TRIENNIALLY.—Section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended in the second sentence, in the matter in clause (i) preceding subclause (I)—

(A) by striking "and that is designated" and inserting "and that, within the previous three-year period, has been designated"; and

(B) by striking "or that is designated" and inserting "or designated".

(2) AREA MUST HAVE SHORTAGE OF HEALTH CARE PRACTITIONERS.—Section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)), as amended by paragraph (1), is further amended in the second sentence, in the matter in clause (i) preceding subclause (I)—

(A) by striking the comma after "personal health services"; and

(B) by inserting "and in which there are insufficient numbers of needed health care practitioners (as determined by the Secretary)," after "Bureau of the Census)".

(3) PREVIOUSLY QUALIFYING CLINICS GRANDFATHERED ONLY TO PREVENT SHORTAGE.—Section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended in the third sentence by inserting before the period "if it is determined, in accordance with criteria established by the Secretary in regulations, to be essential to the delivery of primary care services that would otherwise be unavailable in the geographic area served by the clinic".

(4) EFFECTIVE DATES; IMPLEMENTING REGULATIONS.—

(A) IN GENERAL.—Except as otherwise provided, the amendments made by the preceding paragraphs take effect on January 1 of the first calendar year beginning at least one month after enactment of this Act.

(B) CURRENT RURAL HEALTH CLINICS.—The amendments made by the preceding paragraphs take effect, with respect to entities that are rural health clinics under title XVIII of the Social Security Act on the date of enactment of this Act, on January 1 of the second calendar year following the calendar year specified in subparagraph (A).

(C) GRANDFATHERED CLINICS.—

(i) IN GENERAL.—The amendment made by paragraph (3) shall take effect on the effective date of regulations issued by the Secretary under clause (ii).

(ii) REGULATIONS.—The Secretary shall issue final regulations implementing paragraph (3) that shall take effect no later than January 1 of the third calendar year beginning at least one month after enactment of this Act.

SEC. 10619. INCREASED MEDICARE REIMBURSEMENT FOR NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS.

(a) REMOVAL OF RESTRICTIONS ON SETTINGS.—

(1) IN GENERAL.—Clause (ii) of section 1861(s)(2)(K) (42 U.S.C. 1395x(s)(2)(K)) is amended to read as follows:

"(ii) services which would be physicians' services if furnished by a physician (as defined in subsection (r)(1)) and which are performed by a nurse practitioner or clinical nurse specialist (as defined in subsection (aa)(5)) working in collaboration (as defined in subsection (aa)(6)) with a physician (as defined in subsection (r)(1)) which the nurse practitioner or clinical nurse specialist is legally authorized to perform by the State in which the services are performed, and such services and supplies furnished as an incident to such services as would be covered under subparagraph (A) if furnished incident to a physician's professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services;".

(2) CONFORMING AMENDMENTS.—(A) Section 1861(s)(2)(K) of such Act (42 U.S.C. 1395x(s)(2)(K)) is further amended—

(i) in clause (i), by inserting "and such services and supplies furnished as incident to such services as would be covered under subparagraph (A) if furnished incident to a physician's professional service," after "are performed,"; and

(ii) by striking clauses (iii) and (iv).

(B) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is amended by striking "clauses (i) or (iii) of subsection (s)(2)(K)" and inserting "subsection (s)(2)(K)".

(C) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "section 1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)" and inserting "section 1861(s)(2)(K)".

(D) Section 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H)) is amended by striking "section 1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)" and inserting "section 1861(s)(2)(K)".

(E) Section 1888(e)(2)(A)(ii) (42 U.S.C. 1395yy(e)(2)(A)(ii)), as added by section 10401(a), is amended by striking "through (iii)" and inserting "and (ii)".

(b) INCREASED PAYMENT.—

(1) FEE SCHEDULE AMOUNT.—Clause (O) of section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended to read as follows: "(O) with respect to services described in section 1861(s)(2)(K)(ii) (relating to nurse practitioner or clinical nurse specialist services), the amounts paid 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, 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; and".

(2) CONFORMING AMENDMENTS.—(A) Section 1833(r) (42 U.S.C. 1395l(r)) is amended—

(i) in paragraph (1), by striking "section 1861(s)(2)(K)(iii) (relating to nurse practitioner or clinical nurse specialist services provided in a rural area)" and inserting "section 1861(s)(2)(K)(ii) (relating to nurse practitioner or clinical nurse specialist services)";

(ii) by striking paragraph (2);

(iii) in paragraph (3), by striking "section 1861(s)(2)(K)(iii)" and inserting "section 1861(s)(2)(K)(ii)"; and

(iv) by redesignating paragraph (3) as paragraph (2).

(B) Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended, in the matter preceding clause (i), by striking "clauses (i), (ii), or (iv) of section 1861(s)(2)(K) (relating to a physician assistants and nurse practitioners)" and inserting "section 1861(s)(2)(K)(i) (relating to physician assistants),".

(c) DIRECT PAYMENT FOR NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS.—

(1) IN GENERAL.—Section 1832(a)(2)(B)(iv) (42 U.S.C. 1395k(a)(2)(B)(iv)) is amended by striking "provided in a rural area (as defined in section 1886(d)(2)(D))" and inserting "but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services".

(2) CONFORMING AMENDMENT.—Section 1842(b)(6)(C) (42 U.S.C. 1395u(b)(6)(C)) is amended—

(A) by striking "clauses (i), (ii), or (iv)" and inserting "clause (i)"; and

(B) by striking "or nurse practitioner".

(d) DEFINITION OF CLINICAL NURSE SPECIALIST CLARIFIED.— Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)) is amended—

(1) by inserting "(A)" after "(5)";

(2) by striking "The term 'physician assistant' " and all that follows through "who performs" and inserting "The term 'physician assistant' and the term 'nurse practitioner' mean, for purposes of this title, a physician assistant or nurse practitioner who performs"; and

(3) by adding at the end the following new subparagraph:

"(B) The term 'clinical nurse specialist' means, for purposes of this title, an individual who—

"(i) is a registered nurse and is licensed to practice nursing in the State in which the clinical nurse specialist services are performed; and

"(ii) holds a master's degree in a defined clinical area of nursing from an accredited educational institution.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services furnished and supplies provided on and after January 1, 1998.

SEC. 10620. INCREASED MEDICARE REIMBURSEMENT FOR PHYSICIAN ASSISTANTS.

(a) REMOVAL OF RESTRICTION ON SETTINGS.—Section 1861(s)(2)(K)(i) (42 U.S.C. 1395x(s)(2)(K)(i)) is amended—

(1) by striking "(I) in a hospital" and all that follows through "shortage area,", and

(2) by adding at the end the following: "but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services,".

(b) INCREASED PAYMENT.—Paragraph (12) of section 1842(b) (42 U.S.C. 1395u(b)), as amended by section 10619(b)(2)(B), is amended to read as follows:

"(12) With respect to services described in section 1861(s)(2)(K)(i)—

"(A) payment under this part may only be made on an assignment-related basis; and

"(B) 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.".

(c) REMOVAL OF RESTRICTION ON EMPLOYMENT RELATIONSHIP.—Section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended by adding at the end the following new sentence: "For purposes of clause (C) of the first sentence of this paragraph, an employment relationship may include any independent contractor arrangement, and employer status shall be determined in accordance with the law of the State in which the services described in such clause are performed.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services furnished and supplies provided on and after January 1, 1998.

SEC. 10621. RENAL DIALYSIS-RELATED SERVICES.

(a) AUDITING OF COST REPORTS.—The Secretary shall audit a sample of cost reports of renal dialysis providers for 1995 and for each third year thereafter.

(b) IMPLEMENTATION OF QUALITY STANDARDS.—The Secretary of Health and Human Services shall develop and implement, by not later than January 1, 1999, a method to measure and report quality of renal dialysis services provided under the medicare program under title XVIII of the Social Security Act in order to reduce payments for inappropriate or low quality care.

CHAPTER 3—PART B PREMIUM

SEC. 10631. PART B PREMIUM.

(a) IN GENERAL.—The first, second and third sentences of section 1839(a)(3) (42 U.S.C. 1395r(a)(3)) are amended to read as follows: "The Secretary, during September of each year, shall determine and promulgate a monthly premium rate for the succeeding calendar year. That monthly premium rate shall be equal to 50 percent of the monthly actuarial rate for enrollees age 65 and over, determined according to paragraph (1), for that succeeding calendar year.".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—

(1) SECTION 1839.—Section 1839 (42 U.S.C. 1395r) is amended—

(A) in subsection (a)(2), by striking "(b) and (e)" and inserting "(b), (c), and (f)",

(B) in the last sentence of subsection (a)(3)—

(i) by inserting "rate" after "premium", and

(ii) by striking "and the derivation of the dollar amounts specified in this paragraph",

(C) by striking subsection (e), and

(D) by redesignating subsection (g) as subsection (e) and inserting that subsection after subsection (d).

(2) SECTION 1844.—Subparagraphs (A)(i) and (B)(i) of section 1844(a)(1) (42 U.S.C. 1395w(a)(1)) are each amended by striking "or 1839(e), as the case may be".

Subtitle H—Provisions Relating to Parts A and B

CHAPTER 1—PROVISIONS RELATING TO MEDICARE SECONDARY PAYER

SEC. 10701. PERMANENT EXTENSION AND REVISION OF CERTAIN SECONDARY PAYER PROVISIONS.

(a) APPLICATION TO DISABLED INDIVIDUALS IN LARGE GROUP HEALTH PLANS.—

(1) IN GENERAL.—Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is amended—

(A) in clause (i), by striking "clause (iv)" and inserting "clause (iii)",

(B) by striking clause (iii), and

(C) by redesignating clause (iv) as clause (iii).

(2) CONFORMING AMENDMENTS.—Paragraphs (1) through (3) of section 1837(i) (42 U.S.C. 1395p(i)) and the second sentence of section 1839(b) (42 U.S.C. 1395r(b)) are each amended by striking "1862(b)(1)(B)(iv)" each place it appears and inserting "1862(b)(1)(B)(iii)".

(b) INDIVIDUALS WITH END STAGE RENAL DISEASE.—

(1) IN GENERAL.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(A) in the first sentence, by striking "12-month" each place it appears and inserting "30-month", and

(B) by striking the second sentence.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to items and services furnished on or after the date of the enactment of this Act and with respect to periods beginning on or after the date that is 18 months prior to such date.

(c) IRS-SSA-HCFA DATA MATCH.—

(1) SOCIAL SECURITY ACT.—Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) INTERNAL REVENUE CODE.—Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

SEC. 10702. CLARIFICATION OF TIME AND FILING LIMITATIONS.

(a) EXTENSION OF CLAIMS FILING PERIOD.—Section 1862(b)(2)(B) (42 U.S.C. 1395y(b)(2)(B)) is amended by adding at the end the following new clause:

"(v) CLAIMS-FILING PERIOD.—Notwithstanding any other time limits that may exist for filing a claim under an employer group health plan, the United States may seek to recover conditional payments in accordance with this subparagraph where the request for payment is submitted to the entity required or responsible under this subsection to pay with respect to the item or service (or any portion thereof) under a primary plan within the 3-year period beginning on the date on which the item or service was furnished.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to items and services furnished after 1990. The previous sentence shall not be construed as permitting any waiver of the 3-year-period requirement (imposed by such amendment) in the

case of items and services furnished more than 3 years before the date of the enactment of this Act.

SEC. 10703. PERMITTING RECOVERY AGAINST THIRD PARTY ADMINISTRATORS.

(a) PERMITTING RECOVERY AGAINST THIRD PARTY ADMINISTRATORS OF PRIMARY PLANS.—Section 1862(b)(2)(B)(ii) (42 U.S.C. 1395y(b)(2)(B)(ii)) is amended—

(1) by striking "under this subsection to pay" and inserting "(directly, as a third-party administrator, or otherwise) to make payment", and

(2) by adding at the end the following: "The United States may not recover from a third-party administrator under this clause in cases where the third-party administrator would not be able to recover the amount at issue from the employer or group health plan for whom it provides administrative services due to the insolvency or bankruptcy of the employer or plan.".

(b) CLARIFICATION OF BENEFICIARY LIABILITY.—Section 1862(b)(1) (42 U.S.C. 1395y(b)(1)) is amended by adding at the end the following new subparagraph:

"(F) LIMITATION ON BENEFICIARY LIABILITY.—An individual who is entitled to benefits under this title and is furnished an item or service for which such benefits are incorrectly paid is not liable for repayment of such benefits under this paragraph unless payment of such benefits was made to the individual.".

(c) EFFECTIVE DATE.—The amendments made by this section apply to items and services furnished on or after the date of the enactment of this Act.

CHAPTER 2—HOME HEALTH SERVICES

SEC. 10711. RECAPTURING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES FOR HOME HEALTH SERVICES.

(a) BASING UPDATES TO PER VISIT COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following:

"(iv) In establishing limits under this subparagraph for cost reporting periods beginning after September 30, 1997, the Secretary shall not take into account any changes in the home health market basket, as determined by the Secretary, 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 (42 U.S.C. 1395x(v)(1)(L)(ii)).

SEC. 10712. 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 moving the indentation of subclauses (I) through (III) 2-ems to the left;

(2) in subclause (I), by inserting "of the mean of the labor-related and nonlabor per visit costs for freestanding home health agencies" before the comma at the end;

(3) in subclause (II), by striking ", or" and inserting "of such mean,";

(4) in subclause (III)—

(A) by inserting "and before October 1, 1997," after "July 1, 1987,", and

(B) by striking the comma at the end and inserting "of such mean, or"; and

(5) by striking the matter following subclause (III) and inserting the following:

"(IV) October 1, 1997, 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 inserting ", or on or after July 1, 1997, and before October 1, 1997" after "July 1, 1996".

(c) ADDITIONS TO COST LIMITS.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)), as amended by section 10711(a), is amended by adding at the end the following new clauses:

"(v) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1997, the Secretary shall provide for an interim system of limits. Payment shall not exceed the costs determined under the preceding provisions of this subparagraph or, if lower, the product of—

"(I) an agency-specific per beneficiary annual limitation calculated based 75 percent on the reasonable costs (including nonroutine medical supplies) for the agency's 12-month cost reporting period ending during 1994, and based 25 percent on the standardized regional average of such costs for the agency's region, as applied to such agency, for cost reporting periods ending during 1994, such costs updated by the home health market basket index; and

"(II) the agency's unduplicated census count of patients (entitled to benefits under this title) for the cost reporting period subject to the limitation.

"(vi) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1997, the following rules apply:

"(I) For new providers and those providers without a 12-month cost reporting period ending in calendar year 1994, the per beneficiary limitation shall be equal to the median of these limits (or the Secretary's best estimates thereof) applied to other home health agencies as determined by the Secretary. A home health agency that has altered its corporate structure or name shall not be considered a new provider for this purpose.

"(II) For beneficiaries who use services furnished by more than one home health agency, the per beneficiary limitations shall be prorated among the agencies.".

(d) DEVELOPMENT OF CASE MIX SYSTEM.—The Secretary of Health and Human Services shall expand research on a prospective payment system for home health agencies under the medicare program that ties prospective payments to a unit of service, including an intensive effort to develop a reliable case mix adjuster that explains a significant amount of the variances in costs.

(e) SUBMISSION OF DATA FOR CASE MIX SYSTEM.—Effective for cost reporting periods beginning on or after October 1, 1997, the Secretary of Health and Human Services may require all home health agencies to submit additional information that the Secretary considers necessary for the development of a reliable case mix system.

SEC. 10713. CLARIFICATION OF PART-TIME OR INTERMITTENT NURSING CARE.

(a) IN GENERAL.—Section 1861(m) (42 U.S.C. 1395x(m)) is amended by adding at the end the following: "For purposes of paragraphs (1) and (4), the term 'part-time or intermittent services' means skilled nursing and home health aide services furnished any number of days per week as long as they are furnished (combined) less than 8 hours each day and 28 or fewer hours each week (or, subject to review on a case-by-case basis as to the need for care, less than 8 hours each day and 35 or fewer hours per week). For purposes of sections 1814(a)(2)(C) and 1835(a)(2)(A), 'intermittent' means skilled nursing care that is either provided or needed on fewer than 7 days each week, or less than 8 hours of each day for periods of 21 days or less (with extensions in exceptional circumstances when the need for additional care is finite and predictable).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to services furnished on or after October 1, 1997.

SEC. 10714. STUDY ON DEFINITION OF HOMEBOUND.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study of the criteria that should be applied, and the method of applying such criteria, in the determination of whether an individual is homebound for purposes of qualifying for receipt of benefits for home health services under the medicare program. Such criteria shall include the extent and circumstances under which a person may be absent from the home but nonetheless qualify.

(b) REPORT.—Not later than October 1, 1998, the Secretary shall submit a report to the Congress on the study conducted under subsection (a). The report shall include specific recommendations on such criteria and methods.

SEC. 10715. PAYMENT BASED ON LOCATION WHERE HOME HEALTH SERVICE IS FURNISHED.

(a) CONDITIONS OF PARTICIPATION.—Section 1891 (42 U.S.C. 1395bbb) is amended by adding at the end the following:

"(g) PAYMENT ON BASIS OF LOCATION OF SERVICE.—A home health agency shall submit claims for payment for 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".

(c) EFFECTIVE DATE.—The amendments made by this section apply to cost reporting periods beginning on or after October 1, 1997.

SEC. 10716. NORMATIVE STANDARDS FOR HOME HEALTH CLAIMS DENIALS,

(a) IN GENERAL.—Section 1862(a)(1) (42 U.S.C. 1395y(a)(1)), as amended by section 10616(c), is amended—

(1) by striking "and" at the end of subparagraph (G),

(2) by striking the semicolon at the end of subparagraph (H) and inserting ", and", and

(3) by inserting after subparagraph (H) the following new subparagraph:

"(I) the frequency and duration of home health services which are in excess of normative guidelines that the Secretary shall establish by regulation;".

(b) NOTIFICATION.—The Secretary of Health and Human Services may establish a process for notifying a physician in cases in which the number of home health service visits furnished under the medicare program pursuant to a prescription or certification of the physician significantly exceeds such threshold (or thresholds) as the Secretary specifies. The Secretary may adjust such threshold to reflect demonstrated differences in the need for home health services among different beneficiaries.

(c) EFFECTIVE DATE.—The amendments made by this section apply to services furnished on or after October 1, 1997.

SEC. 10717. NO HOME HEALTH BENEFITS BASED SOLELY ON DRAWING BLOOD.

(a) IN GENERAL.—Sections 1814(a)(2)(C) and 1835(a)(2)(A) (42 U.S.C. 1395f(a)(2)(C), 1395n(a)(2)(A)) are each amended by inserting

"(other than solely venipuncture for the purpose of obtaining a blood sample)" after "skilled nursing care".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to home health services furnished after the 6-month period beginning after the date of enactment of this Act.

CHAPTER 3—BABY BOOM GENERATION MEDICARE COMMISSION

SEC. 10721. BIPARTISAN COMMISSION ON THE EFFECT OF THE BABY BOOM GENERATION ON THE MEDICARE PROGRAM.

(a) ESTABLISHMENT.—There is established a commission to be known as the Bipartisan Commission on the Effect of the Baby Boom Generation on the Medicare Program (in this section referred to as the "Commission").

(b) DUTIES.—

(1) IN GENERAL.—The Commission shall—

(A) examine the financial impact on the medicare program of the significant increase in the number of medicare eligible individuals which will occur beginning approximately during 2010 and lasting for approximately 25 years,

(B) make specific recommendations to the Congress respecting a comprehensive approach to preserve the medicare program for the period during which such individuals are eligible for medicare, and

(C) study the feasibility and desirability of establishing—

(i) an independent commission on medicare to make recommendations annually on how best to match the structure of the medicare program to available funding for the program,

(ii) an expedited process for consideration of such recommendations by Congress, and

(iii) a default mechanism to enforce Congressional spending targets for the program if Congress fails to approve such recommendations.

(2) CONSIDERATIONS IN MAKING RECOMMENDATIONS.—In making its recommendations, the Commission shall consider the following:

(A) The amount and sources of Federal funds to finance the medicare program, including the potential use of innovative financing methods.

(B) Methods used by other nations to respond to comparable demographic patterns in eligibility for health care benefits for elderly and disabled individuals.

(C) Modifying age-based eligibility to correspond to changes in age-based eligibility under the OASDI program.

(D) Trends in employment-related health care for retirees, including the use of medical savings accounts and similar financing devices.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 15 voting members as follows:

(A) The Majority Leader of the Senate shall appoint, after consultation with the minority leader of the Senate, 6 members, of whom not more than 4 may be of the same political party.

(B) The Speaker of the House of Representatives shall appoint, after consultation with the minority leader of the House of Representatives, 6 members, of whom not more than 4 may be of the same political party.

(C) The 3 ex officio members of the Board of Trustees of the Federal Hospital Insurance Trust Fund and of the Federal Supplementary Medical Insurance Trust Fund who are Cabinet level officials.

(2) CHAIRMAN AND VICE CHAIRMAN.—As the first item of business at the Commission's first meeting (described in paragraph (5)(B)), the Commission shall elect a Chairman and Vice Chairman from among its members. The individuals elected as Chairman and Vice Chairman may not be of the same political party and may not have been appointed to the Commission by the same appointing authority.

(3) VACANCIES.—Any vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made and shall not affect the power of the remaining members to execute the duties of the Commission.

(4) QUORUM.—A quorum shall consist of 8 members of the Commission, except that 4 members may conduct a hearing under subsection (f).

(5) MEETINGS.—

(A) The Commission shall meet at the call of its Chairman or a majority of its members.

(B) The Commission shall hold its first meeting not later than February 1, 1998.

(6) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—Members of the Commission are not entitled to receive compensation for service on the Commission. Members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Commission.

(d) ADVISORY PANEL.—

(1) IN GENERAL.—The Chairman, in consultation with the Vice Chairman, may establish a panel (in this section referred to as the "Advisory Panel") consisting of health care experts, consumers, providers, and others to advise and assist the members of the Commission in carrying out the duties described in subsection (b). The panel shall have only those powers that the Chairman, in consultation with the Vice Chairman, determines are necessary and appropriate to assist the Commission in carrying out such duties.

(2) COMPENSATION.—Members of the Advisory Panel are not entitled to receive compensation for service on the Advisory Panel. Subject to the approval of the chairman of the Commission, members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Advisory Panel.

(e) STAFF AND CONSULTANTS.—

(1) STAFF.—The Commission may appoint and determine the compensation of such staff as may be necessary to carry out the duties of the Commission. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(2) CONSULTANTS.—The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(f) POWERS.—

(1) HEARINGS AND OTHER ACTIVITIES.—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties.

(2) STUDIES BY GAO.—Upon the request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

(3) COST ESTIMATES BY CONGRESSIONAL BUDGET OFFICE.—

(A) Upon the request of the Commission, the Director of the Congressional Budget Office shall provide to the Commission such cost estimates as the Commission determines to be necessary to carry out its duties.

(B) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

(4) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(6) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(7) OBTAINING INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(8) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(9) PRINTING.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

(g) REPORT.—(1) Not later than May 1, 1999, the Commission shall submit to Congress a report containing its findings and recommendations regarding how to protect and preserve the medicare program in a financially solvent manner until 2030 (or, if later, throughout the period of projected solvency of the Federal Old-Age and Survivors Insurance Trust Fund). The report shall include detailed recommendations for appropriate legislative initiatives respecting how to accomplish this objective.

(2) Not later than 12 months after the date of the enactment of this Act, the Commission shall report to the Congress on the matters specified in subsection (b)(1)(C). If the Commission determines that it is feasible and desirable to establish the processes described in such subsection, the report under this paragraph shall include specific recommendations on changes in law (such as changes in the Congressional Budget Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985) as are needed to implement its recommendations.

(h) TERMINATION.—The Commission shall terminate 30 days after the date of submission of the report required in subsection (g).

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated

$1,500,000 to carry out this section. 60 percent of such appropriation shall be payable from the Federal Hospital Insurance Trust Fund, and 40 percent of such appropriation shall be payable from the Federal Supplementary Medical Insurance Trust Fund under title XVIII of the Social Security Act (42 U.S.C. 1395i, 1395t).

CHAPTER 4—PROVISIONS RELATING TO DIRECT GRADUATE MEDICAL EDUCATION

SEC. 10731. LIMITATION ON PAYMENT BASED ON NUMBER OF RESIDENTS AND IMPLEMENTATION OF ROLLING AVERAGE FTE COUNT.

Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)) is amended by adding after subparagraph (E) the following:

"(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, 1997, the total number of full-time equivalent residents before application of weighting factors (as determined under this paragraph) with respect to a hospital's approved medical residency training program may not exceed the number of full-time equivalent residents with respect to the hospital's most recent cost reporting period ending on or before December 31, 1996. The Secretary may establish rules, consistent with the policies in the previous sentence and paragraph (6), with respect to the application of the previous sentence in the case of medical residency training programs established on or after January 1, 1997.

"(G) COUNTING INTERNS AND RESIDENTS FOR FY 1998 AND SUBSEQUENT YEARS.—

"(i) FY 1998.—For the hospital's first cost reporting period beginning during fiscal year 1998, subject to the limit described in subparagraph (F), the total number of full-time equivalent residents, for determining the hospital's graduate medical education payment, shall equal the average of the full-time equivalent resident counts for the cost reporting period and the preceding cost reporting period.

"(ii) SUBSEQUENT YEARS.—For each subsequent cost reporting period, subject to the limit described in subparagraph (F), the total number of full-time equivalent residents, for determining the hospital's graduate medical education payment, shall equal the average of the actual full-time equivalent resident counts for the cost reporting period and preceding two cost reporting periods.

"(iii) ADJUSTMENT FOR SHORT PERIODS.—If a hospital's cost reporting period beginning on or after October 1, 1997, is not equal to twelve months, the Secretary shall make appropriate modifications to ensure that the average full-time equivalent resident counts pursuant to clause (ii) are based on the equivalent of full 12-month cost reporting periods.".

SEC. 10732. PHASED-IN LIMITATION ON HOSPITAL OVERHEAD AND SUPERVISORY PHYSICIAN COMPONENT OF DIRECT MEDICAL EDUCATION COSTS.

(a) IN GENERAL.—Section 1886(h)(3) (42 U.S.C. 1395ww(h)(3)) is amended—

(1) in subparagraph (B), by inserting "subject to subparagraph (D)," after "subparagraph (A)", and

(2) by adding at the end the following:

"(D) PHASED-IN LIMITATION ON HOSPITAL OVERHEAD AND SUPERVISORY PHYSICIAN COMPONENT.—

"(i) IN GENERAL.—In the case of a hospital for which the overhead GME amount (as defined in clause (ii)) for the base period exceeds an amount equal to the 75th percentile of the overhead GME amounts in such period for all hospitals (weighted to reflect the full-time equivalent resident counts for all approved medical residency training programs), subject to clause (iv), the hospital's approved FTE resident amount (for periods beginning on or after October 1, 1997) shall be reduced from the amount otherwise applicable (as previously reduced under this subparagraph) by an overhead reduction amount. The overhead reduction amount is equal to the lesser of—

"(I) 20 percent of the reference reduction amount (described in clause (iii)) for the period, or

"(II) 15 percent of the hospital's overhead GME amount for the period (as otherwise determined before the reduction provided under this subparagraph for the period involved).

"(ii) OVERHEAD GME AMOUNT.—For purposes of this subparagraph, the term 'overhead GME amount' means, for a hospital for a period, the product of—

"(I) the percentage of the hospital's approved FTE resident amount for the base period that is not attributable to resident salaries and fringe benefits, and

"(II) the hospital's approved FTE resident amount for the period involved.

"(iii) REFERENCE REDUCTION AMOUNT.—

"(I) IN GENERAL.—The reference reduction amount described in this clause for a hospital for a cost reporting period is the base difference (described in subclause (II)) updated, in a compounded manner for each period from the base period to the period involved, by the update applied for such period to the hospital's approved FTE resident amount.

"(II) BASE DIFFERENCE.—The base difference described in this subclause for a hospital is the amount by which the hospital's overhead GME amount in the base period exceeded the 75th percentile of such amounts (as described in clause (i)).

"(iv) MAXIMUM REDUCTION TO 75TH PERCENTILE.—In no case shall the reduction under this subparagraph effected for a hospital for a period (below the amount that would otherwise apply for the period if this subparagraph did not apply for any period) exceed the reference reduction amount for the hospital for the period.

"(v) BASE PERIOD.—For purposes of this subparagraph, the term 'base period' means the cost reporting period beginning in fiscal year 1984 or the period used to establish the hospital's approved FTE resident amount for hospitals that did not have approved residency training programs in fiscal year 1984.

"(vi) RULES FOR HOSPITALS INITIATING RESIDENCY TRAINING PROGRAMS.—The Secretary shall establish rules for the application of this subparagraph in the case of a hospital that initiates medical residency training programs during or after the base period.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to per resident payment amounts attributable to periods beginning on or after October 1, 1997.

SEC. 10733. PERMITTING PAYMENT TO NON-HOSPITAL PROVIDERS.

(a) IN GENERAL.— Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following:

"(k) PAYMENT TO NON-HOSPITAL PROVIDERS.—

"(1) REPORT.—The Secretary shall submit to Congress, not later than 18 months after the date of the enactment of this subsection, a proposal for payment to qualified non-hospital providers for their direct costs of medical education, if those costs are incurred in the operation of an approved medical residency training program described in subsection (h). Such proposal shall specify the amounts, form, and manner in which such payments will be made and the portion of such payments that will be made from each of the trust funds under this title.

"(2) EFFECTIVENESS.—Except as otherwise provided in law, the Secretary may implement such proposal for residency years beginning not earlier than 6 months after the date of submittal of the report under paragraph (1).

"(3) QUALIFIED NON-HOSPITAL PROVIDERS.—For purposes of this subsection, the term 'qualified non-hospital provider' means—

"(A) a Federally qualified health center, as defined in section 1861(aa)(4);

"(B) a rural health clinic, as defined in section 1861(aa)(2);

"(C) MedicarePlus organizations; and

"(D) such other providers (other than hospitals) as the Secretary determines to be appropriate.".

(b) PROHIBITION ON DOUBLE PAYMENTS; BUDGET NEUTRALITY ADJUSTMENT.—Section 1886(h)(3)(B) (42 U.S.C. 1395ww(h)(3)(B)) is amended by adding at the end the following: "The Secretary shall reduce the aggregate approved amount to the extent payment is made under subsection (k) for residents included in the hospital's count of full-time equivalent residents and, in the case of residents not included in any such count, the Secretary shall provide for such a reduction in aggregate approved amounts under this subsection as will assure that the application of subsection (k) does not result in any increase in expenditures under this title in excess of those that would have occurred if subsection (k) were not applicable.".

SEC. 10734. INCENTIVE PAYMENTS UNDER PLANS FOR VOLUNTARY REDUCTION IN NUMBER OF RESIDENTS.

(a) IN GENERAL.—Section 1886(h) (42 U.S.C. 1395ww(h)) is further amended by adding at the end the following new paragraph:

"(6) INCENTIVE PAYMENT UNDER PLANS FOR VOLUNTARY REDUCTION IN NUMBER OF RESIDENTS.—

"(A) IN GENERAL.—In the case of a voluntary residency reduction plan for which an application is approved under subparagraph (B), the qualifying entity submitting the plan shall be paid an applicable hold harmless percentage (as specified in subparagraph (E)) of the sum of—

"(i) amount (if any) by which—

"(I) the amount of payment which would have been made under this subsection if there had been a 5 percent reduction in the number of full-time equivalent residents in the approved medical education training programs of the qualifying entity as of June 30, 1997, exceeds

"(II) the amount of payment which is made under this subsection, taking into account the reduction in such number effected under the reduction plan; and

"(ii) the amount of the reduction in payment under 1886(d)(5)(B) (for hospitals participating in the qualifying entity) that is attributable to the reduction in number of residents effected under the plan below 95 percent of the number of full-time equivalent residents in such programs of such entity as of June 30, 1997.

"(B) APPROVAL OF PLAN APPLICATIONS.—The Secretary may not approve the application of an qualifying entity unless—

"(i) the application is submitted in a form and manner specified by the Secretary and by not later than March 1, 2000,

"(ii) the application provides for the operation of a plan for the reduction in the number of full-time equivalent residents in the approved medical residency training programs of the entity consistent with the requirements of subparagraph (D);

"(iii) the entity elects in the application whether such reduction will occur over—

"(I) a period of not longer than 5 residency training years, or

"(II) a period of 6 residency training years,

except that a qualifying entity described in subparagraph (C)(i)(III) may not make the election described in subclause (II); and

"(iv) the Secretary determines that the application and the entity and such plan meet such other requirements as the Secretary specifies in regulations.

"(C) QUALIFYING ENTITY.—

"(i) IN GENERAL.—For purposes of this paragraph, any of the following may be a qualifying entity:

"(I) Individual hospitals operating one or more approved medical residency training programs.

"(II) Subject to clause (ii), two or more hospitals that operate such programs and apply for treatment under this paragraph as a single qualifying entity.

"(III) Subject to clause (iii), a qualifying consortium (as described in section 10735 of the Balanced Budget Act of 1997).

"(ii) ADDITIONAL REQUIREMENT FOR JOINT PROGRAMS.—In the case of an application by a qualifying entity described in clause (i)(II), the Secretary may not approve the application unless the application represents that the qualifying entity either—

"(I) in the case of an entity that meets the requirements of clause (v) of subparagraph (D) will not reduce the number of full-time equivalent residents in primary care during the period of the plan, or

"(II) in the case of another entity will not reduce the proportion of its residents in primary care (to the total number of residents) below such proportion as in effect as of the applicable time described in subparagraph (D)(vi).

"(iii) ADDITIONAL REQUIREMENT FOR CONSORTIA.—In the case of an application by a qualifying entity described in clause (i)(III), the Secretary may not approve the application unless the application represents that the qualifying entity will not reduce the proportion of its residents in primary care (to the total number of residents) below such proportion as in effect as of the applicable time described in subparagraph (D)(vi).

"(D) RESIDENCY REDUCTION REQUIREMENTS.—

"(i) INDIVIDUAL HOSPITAL APPLICANTS.—In the case of a qualifying entity described in subparagraph (C)(i)(I), the number of full-time equivalent residents in all the approved medical residency training programs operated by or through the entity shall be reduced as follows:

"(I) If base number of residents exceeds 750 residents, by a number equal to at least 20 percent of such base number.

"(II) Subject to subclause (IV), if base number of residents exceeds 500, but is less than 750, residents, by 150 residents.

"(III) Subject to subclause (IV), if base number of residents does not exceed 500 residents, by a number equal to at least 25 percent of such base number.

"(IV) In the case of a qualifying entity which is described in clause (v) and which elects treatment under this subclause, by a number equal to at least 20 percent of such base number.

"(ii) JOINT APPLICANTS.—In the case of a qualifying entity described in subparagraph (C)(i)(II), the number of full-time equivalent residents in all the approved medical residency training programs operated by or through the entity shall be reduced as follows:

"(I) Subject to subclause (II), by a number equal to at least 25 percent of such base number.

"(II) In the case of a qualifying entity which is described in clause (v) and which elects treatment under this subclause, by a number equal to at least 20 percent of such base number.

"(iii) CONSORTIA.—In the case of a qualifying entity described in subparagraph (C)(i)(III), the number of full-time equivalent residents in all the approved medical residency training programs operated by or through the entity shall be reduced by a number equal to at least 20 percent of such base number.

"(iv) MANNER OF REDUCTION.—The reductions specified under the preceding provisions of this subparagraph for a qualifying entity shall be below the base number of residents for that entity and shall be fully effective not later than—

"(I) the 5th residency training year in which the application under subparagraph (B) is effective, in the case of an entity making the election described in subparagraph (B)(iii)(I), or

"(II) the 6th such residency training year, in the case of an entity making the election described in subparagraph (B)(iii)(II).

"(v) ENTITIES PROVIDING ASSURANCE OF MAINTENANCE OF PRIMARY CARE RESIDENTS.—An entity is described in this clause if—

"(I) the base number of residents for the entity is less than 750;

"(II) the number of full-time equivalent residents in primary care included in the base number of residents for the entity is at least 10 percent of such base number; and

"(III) the entity represents in its application under subparagraph (B) that there will be no reduction under the plan in the number of full-time equivalent residents in primary care.

If a qualifying entity fails to comply with the representation described in subclause (III), the entity shall be subject to repayment of all amounts paid under this paragraph, in accordance with procedures established to carry out subparagraph (F).

"(vi) BASE NUMBER OF RESIDENTS DEFINED.—For purposes of this paragraph, the term 'base number of residents' means, with respect to a qualifying entity operating approved medical residency training programs, the number of full-time equivalent residents in such programs (before application of weighting factors) of the entity as of the most recent cost reporting period ending before June 30, 1997, or, if less, for any subsequent cost reporting period that ends before the date the entity makes application under this paragraph.

"(E) APPLICABLE HOLD HARMLESS PERCENTAGE.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the 'applicable hold harmless percentage' is the percentages specified in clause (ii) or clause (iii), as elected by the qualifying entity in the application submitted under subparagraph (B).

"(ii) 5-YEAR REDUCTION PLAN.—In the case of an entity making the election described in subparagraph (B)(iii)(I), the percentages specified in this clause are, for the—

"(I) first and second residency training years in which the reduction plan is in effect, 100 percent,

"(II) third such year, 75 percent,

"(III) fourth such year, 50 percent, and

"(IV) fifth such year, 25 percent.

"(iii) 6-YEAR REDUCTION PLAN.—In the case of an entity making the election described in subparagraph (B)(iii)(II), the percentages specified in this clause are, for the—

"(I) first residency training year in which the reduction plan is in effect, 100 percent,

"(II) second such year, 95 percent,

"(III) third such year, 85 percent,

"(IV) fourth such year, 70 percent,

"(V) fifth such year, 50 percent, and

"(VI) sixth such year, 25 percent.

"(F) PENALTY FOR INCREASE IN NUMBER OF RESIDENTS IN SUBSEQUENT YEARS.—If payments are made under this paragraph to a qualifying entity, if the entity (or any hospital operating as part of the entity) increases the number of full-time equivalent residents above the number of such residents permitted under the reduction plan as of the completion of the plan, then, as specified by the Secretary, the entity is liable for repayment to the Secretary of the total amounts paid under this paragraph to the entity.

"(G) TREATMENT OF ROTATING RESIDENTS.—In applying this paragraph, the Secretary shall establish rules regarding the counting of residents who are assigned to institutions the medical residency training programs in which are not covered under approved applications under this paragraph.".

(b) RELATION TO DEMONSTRATION PROJECTS AND AUTHORITY.—

(1) Section 1886(h)(6) of the Social Security Act, added by subsection (a), shall not apply to any residency training program with respect to which a demonstration project described in paragraph (3) has been approved by the Health Care Financing Administration as of May 27, 1997. The Secretary of Health and Human Services shall take such actions as may be necessary to assure that (in the manner described in subparagraph (A) of such section) in no case shall payments be made under such a project with respect to the first 5 percent reduction in the base number of full-time equivalent residents otherwise used under the project.

(2) Effective May 27, 1997, the Secretary of Health and Human Services is not authorized to approve any demonstration project described in paragraph (3) for any residency training year beginning before July 1, 2006.

(3) A demonstration project described in this paragraph is a project that provides for additional payments under title XVIII of the Social Security Act in connection with reduction in the number of residents in a medical residency training program.

(c) INTERIM, FINAL REGULATIONS.—In order to carry out the amendment made by subsection (a) in a timely manner, the Secretary of Health and Human Services may first promulgate regulations, that take effect on an interim basis, after notice and pending opportunity for public comment, by not later than 6 months after the date of the enactment of this Act.

SEC. 10735. DEMONSTRATION PROJECT ON USE OF CONSORTIA.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the Secretary) shall establish a demonstration project under which, instead of making payments to teaching hospitals pursuant to section 1886(h) of the Social Security Act, the Secretary shall make payments under this section to each consortium that meets the requirements of subsection (b).

(b) QUALIFYING CONSORTIA.—For purposes of subsection (a), a consortium meets the requirements of this subsection if the consortium is in compliance with the following:

(1) The consortium consists of an approved medical residency training program in a teaching hospital and one or more of the following entities:

(A) A school of allopathic medicine or osteopathic medicine.

(B) Another teaching hospital, which may be a children's hospital.

(C) Another approved medical residency training program.

(D) A Federally qualified health center.

(E) A medical group practice.

(F) A managed care entity.

(G) An entity furnishing outpatient services.

(H) Such other entity as the Secretary determines to be appropriate.

(2) The members of the consortium have agreed to participate in the programs of graduate medical education that are operated by the entities in the consortium.

(3) With respect to the receipt by the consortium of payments made pursuant to this section, the members of the consortium have agreed on a method for allocating the payments among the members.

(4) The consortium meets such additional requirements as the Secretary may establish.

(c) AMOUNT AND SOURCE OF PAYMENT.—The total of payments to a qualifying consortium for a fiscal year pursuant to subsection (a) shall not exceed the amount that would have been paid under section 1886(h) of the Social Security Act for the teaching hospital (or hospitals) in the consortium. Such payments shall be made in such proportion from each of the trust funds established under title XVIII of such Act as the Secretary specifies.

SEC. 10736. RECOMMENDATIONS ON LONG-TERM PAYMENT POLICIES REGARDING FINANCING TEACHING HOSPITALS AND GRADUATE MEDICAL EDUCATION.

(a) IN GENERAL.—The Medicare Payment Advisory Commission (established under section 1805 of the Social Security Act and in this section referred to as the "Commission") shall examine and develop recommendations on whether and to what extent medicare payment policies and other Federal policies regarding teaching hospitals and graduate medical education should be reformed. Such recommendations shall include recommendations regarding each of the following:

(1) The financing of graduate medical education, including consideration of alternative broad-based sources of funding for such education and models for the distribution of payments under any all-payer financing mechanism.

(2) The financing of teaching hospitals, including consideration of the difficulties encountered by such hospitals as competition among health care entities increases. Matters considered under this paragraph shall include consideration of the effects on teaching hospitals of the method of financing used for the MedicarePlus program under part C of title XVIII of the Social Security Act.

(3) Possible methodologies for making payments for graduate medical education and the selection of entities to receive such payments. Matters considered under this paragraph shall include—

(A) issues regarding children's hospitals and approved medical residency training programs in pediatrics, and

(B) whether and to what extent payments are being made (or should be made) for training in the various nonphysician health professions.

(4) Federal policies regarding international medical graduates.

(5) The dependence of schools of medicine on service-generated income.

(6) Whether and to what extent the needs of the United States regarding the supply of physicians, in the aggregate and in different specialties, will change during the 10-year period beginning on October 1, 1997, and whether and to what extent any such changes will have significant financial effects on teaching hospitals.

(7) Methods for promoting an appropriate number, mix, and geographical distribution of health professionals.

(c) CONSULTATION.—In conducting the study under subsection (a), the Commission shall consult with the Council on Graduate Medical Education and individuals with expertise in the area of graduate medical education, including—

(1) deans from allopathic and osteopathic schools of medicine;

(2) chief executive officers (or equivalent administrative heads) from academic health centers, integrated health care systems, approved medical residency training programs, and teaching hospitals that sponsor approved medical residency training programs;

(3) chairs of departments or divisions from allopathic and osteopathic schools of medicine, schools of dentistry, and approved medical residency training programs in oral surgery;

(4) individuals with leadership experience from representative fields of non-physician health professionals;

(5) individuals with substantial experience in the study of issues regarding the composition of the health care workforce of the United States; and

(6) individuals with expertise on the financing of health care.

(d) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Commission shall submit to the Congress a report providing its recommendations under this section and the reasons and justifications for such recommendations.

SEC. 10737. MEDICARE SPECIAL REIMBURSEMENT RULE FOR CERTAIN COMBINED RESIDENCY PROGRAMS.

(a) IN GENERAL.—Section 1886(h)(5)(G) (42 U.S.C. 1395ww(h)(5)(G)) is amended—

(1) in clause (i), by striking "and (iii)" and inserting ", (iii), and (iv)"; and

(2) by adding at the end the following:

"(iv) SPECIAL RULE FOR CERTAIN COMBINED RESIDENCY PROGRAMS.—(I) In the case of a resident enrolled in a combined medical residency training program in which all of the individual programs (that are combined) are for training a primary care resident (as defined in subparagraph (H)), the period of board eligibility shall be the minimum number of years of formal training required to satisfy the requirements for initial board eligibility in the longest of the individual programs plus one additional year.

"(II) A resident enrolled in a combined medical residency training program that includes an obstetrics and gynecology program shall qualify for the period of board eligibility under subclause (I) if the other programs such resident combines with such obstetrics and gynecology program are for training a primary care resident.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to combined medical residency programs for residency years beginning on or after July 1, 1998.

CHAPTER 5—OTHER PROVISIONS

SEC. 10741. CENTERS OF EXCELLENCE.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1888 the following:

"CENTERS OF EXCELLENCE

"SEC. 1889. (a) IN GENERAL.—The Secretary shall use a competitive process to contract with specific hospitals or other entities for furnishing services related to surgical procedures, and for furnishing services (unrelated to surgical procedures) to hospital inpatients that the Secretary determines to be appropriate. The services may include any services covered under this title that the Secretary determines to be appropriate, including post-hospital services.

"(b) QUALITY STANDARDS.—Only entities that meet quality standards established by the Secretary shall be eligible to contract under this section. Contracting entities shall implement a quality improvement plan approved by the Secretary.

"(c) PAYMENT.—Payment under this section shall be made on the basis of negotiated all-inclusive rates. The amount of payment made by the Secretary to an entity under this title for services covered under a contract shall be less than the aggregate amount of the payments that the Secretary would have otherwise made for the services.

"(d) CONTRACT PERIOD.—A contract period shall be 3 years (subject to renewal), so long as the entity continues to meet quality and other contractual standards.

"(e) INCENTIVES FOR USE OF CENTERS.—Entities under a contract under this section may furnish additional services (at no cost to an individual entitled to benefits under this title) or waive cost-sharing, subject to the approval of the Secretary.

"(f) LIMIT ON NUMBER OF CENTERS.—The Secretary shall limit the number of centers in a geographic area to the number needed to meet projected demand for contracted services.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to services furnished on or after October 1, 1997.

SEC. 10742. MEDICARE PART B SPECIAL ENROLLMENT PERIOD AND WAIVER OF PART B LATE ENROLLMENT PENALTY AND MEDIGAP SPECIAL OPEN ENROLLMENT PERIOD FOR CERTAIN MILITARY RETIREES AND DEPENDENTS.

(a) MEDICARE PART B SPECIAL ENROLLMENT PERIOD; WAIVER OF PART B PENALTY FOR LATE ENROLLMENT.—

(1) IN GENERAL.—In the case of any eligible individual (as defined in subsection (c)), the Secretary of Health and Human Services shall provide for a special enrollment period during which the individual may enroll under part B of title XVIII of the Social Security Act. Such period shall be for a period of 6 months and shall begin with the first month that begins at least 45 days after the date of the enactment of this Act.

(2) COVERAGE PERIOD.—In the case of an eligible individual who enrolls during the special enrollment period provided under paragraph (1), the coverage period under part B of title XVIII of the Social Security Act shall begin on the first day of the month following the month in which the individual enrolls.

(3) WAIVER OF PART B LATE ENROLLMENT PENALTY.—In the case of an eligible individual who enrolls during the special enrollment period provided under paragraph (1), there shall be no increase pursuant to section 1839(b) of the Social Security Act in the monthly premium under part B of title XVIII of such Act.

(b) MEDIGAP SPECIAL OPEN ENROLLMENT PERIOD.—Notwithstanding any other provision of law, an issuer of a medicare supplemental policy (as defined in section 1882(g) of the Social Security Act)—

(1) may not deny or condition the issuance or effectiveness of a medicare supplemental policy that has a benefit package classified as "A", "B", "C", or "F" under the standards established under section 1882(p)(2) of the Social Security Act (42 U.S.C. 1395rr(p)(2)); and

(2) may not discriminate in the pricing of the policy on the basis of the individual's health status, medical condition (including both physical and mental illnesses), claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), or disability;

in the case of an eligible individual who seeks to enroll (and is enrolled) during the 6-month period described in subsection (a)(1).

(c) ELIGIBLE INDIVIDUAL DEFINED.—In this section, the term "eligible individual" means an individual—

(1) who, as of the date of the enactment of this Act, has attained 65 years of age and was eligible to enroll under part B of title XVIII of the Social Security Act, and

(2) who at the time the individual first satisfied paragraph (1) or (2) of section 1836 of the Social Security Act—

(A) was a covered beneficiary (as defined in section 1072(5) of title 10, United States Code), and

(B) did not elect to enroll (or to be deemed enrolled) under section 1837 of the Social Security Act during the individual's initial enrollment period.

The Secretary of Health and Human Services shall consult with the Secretary of Defense in the identification of eligible individuals.

SEC. 10743. PROTECTIONS UNDER THE MEDICARE PROGRAM FOR DISABLED WORKERS WHO LOSE BENEFITS UNDER A GROUP HEALTH PLAN.

(a) NO PREMIUM PENALTY FOR LATE ENROLLMENT.—The second sentence of section 1839(b) (42 U.S.C. 1395r(b)) is amended by inserting "and not pursuant to a special enrollment period under section 1837(i)(4)" after "section 1837)".

(b) SPECIAL MEDICARE ENROLLMENT PERIOD.—

(1) IN GENERAL.—Section 1837(i) (42 U.S.C. 1395p(i)) is amended by adding at the end the following new paragraph:

"(4)(A) In the case of an individual who is entitled to benefits under part A pursuant to section 226(b) and—

"(i) who at the time the individual first satisfies paragraph (1) or (2) of section 1836—

"(I) is enrolled in a group health plan described in section 1862(b)(1)(A)(v) by reason of the individual's (or the individual's spouse's) current employment or otherwise, and

"(II) has elected not to enroll (or to be deemed enrolled) under this section during the individual's initial enrollment period; and

"(ii) whose continuous enrollment under such group health plan is involuntarily terminated at a time when the enrollment under the plan is not by reason of the individual's (or the individual's spouse's) current employment,

there shall be a special enrollment period described in subparagraph (B).

"(B) The special enrollment period referred to in subparagraph (A) is the 6-month period beginning on the date of the enrollment termination described in subparagraph (A)(ii).".

(2) COVERAGE PERIOD.—Section 1838(e) (42 U.S.C. 1395q(e)) is amended—

(A) by inserting "or 1837(i)(4)(B)" after "1837(i)(3)" the first place it appears, and

(B) by inserting "or specified in section 1837(i)(4)(A)(i)" after "1837(i)(3)" the second place it appears".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to involuntary terminations of coverage under a group health plan occurring on or after the date of the enactment of this Act.

SEC. 10744. PLACEMENT OF ADVANCE DIRECTIVE IN MEDICAL RECORD.

(a) IN GENERAL.—Section 1866(f)(1)(B) (42 U.S.C. 1395cc(f)(1)(B)) is amended by striking "in the individual's medical record" and inserting "in a prominent part of the individual's current medical record".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to provider agreements entered into, renewed, or extended on or after such date (not later than 1 year after the date of the enactment of this Act) as the Secretary of Health and Human Services specifies.

Subtitle I—Medical Liability Reform

CHAPTER 1—GENERAL PROVISIONS

SEC. 10801. FEDERAL REFORM OF HEALTH CARE LIABILITY ACTIONS.

(a) APPLICABILITY.—This subtitle shall apply with respect to any health care liability action brought in any State or Federal court, except that this subtitle shall not apply to—

(1) an action for damages arising from a vaccine-related injury or death to the extent that title XXI of the Public Health Service Act applies to the action, or

(2) an action under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

(b) PREEMPTION.—This subtitle shall preempt any State law to the extent such law is inconsistent with the limitations contained in this subtitle. This subtitle shall not preempt any State law that provides for defenses or places limitations on a person's liability in addition to those contained in this subtitle or otherwise imposes greater restrictions than those provided in this subtitle.

(c) EFFECT ON SOVEREIGN IMMUNITY AND CHOICE OF LAW OR VENUE.—Nothing in subsection (b) shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(d) AMOUNT IN CONTROVERSY.—In an action to which this subtitle applies and which is brought under section 1332 of title 28, United States Code, the amount of noneconomic damages or punitive damages, and attorneys' fees or costs, shall not be included in determining whether the matter in controversy exceeds the sum or value of $50,000.

(e) FEDERAL COURT JURISDICTION NOT ESTABLISHED ON FEDERAL QUESTION GROUNDS.—Nothing in this subtitle shall be construed to establish any jurisdiction in the district courts of the United States over health care liability actions on the basis of section 1331 or 1337 of title 28, United States Code.

SEC. 10802. DEFINITIONS.

As used in this subtitle:

(1) ACTUAL DAMAGES.—The term "actual damages" means damages awarded to pay for economic loss.

(2) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term "alternative dispute resolution system" or "ADR" means a system established under Federal or State law that provides for the resolution of health care liability claims in a manner other than through health care liability actions.

(3) CLAIMANT.—The term "claimant" means any person who brings a health care liability action and any person on whose behalf such an action is brought. If such action is brought through or on behalf of an estate, the term includes the claimant's decedent. If such action is brought through or on behalf of a minor or incompetent, the term includes the claimant's legal guardian.

(4) CLEAR AND CONVINCING EVIDENCE.—The term "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established. Such measure or degree of proof is more than that required under preponderance of the evidence but less than that required for proof beyond a reasonable doubt.

(5) COLLATERAL SOURCE PAYMENTS.—The term "collateral source payments" means any amount paid or reasonably likely to be paid in the future to or on behalf of a claimant, or any service, product, or other benefit provided or reasonably likely to be provided in the future to or on behalf of a claimant, as a result of an injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident or workers' compensation Act;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(6) DRUG.—The term "drug" has the meaning given such term in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)).

(7) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting from injury (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities), to the extent recovery for such loss is allowed under applicable State law.

(8) HARM.—The term "harm" means any legally cognizable wrong or injury for which punitive damages may be imposed.

(9) HEALTH BENEFIT PLAN.—The term "health benefit plan" means—

(A) a hospital or medical expense incurred policy or certificate,

(B) a hospital or medical service plan contract,

(C) a health maintenance subscriber contract, or

(D) a MedicarePlus product (offered under part C of title XVIII of the Social Security Act),

that provides benefits with respect to health care services.

(10) HEALTH CARE LIABILITY ACTION.—The term "health care liability action" means a

civil action brought in a State or Federal court against a health care provider, an entity which is obligated to provide or pay for health benefits under any health benefit plan (including any person or entity acting under a contract or arrangement to provide or administer any health benefit), or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, in which the claimant alleges a claim (including third party claims, cross claims, counter claims, or distribution claims) based upon the provision of (or the failure to provide or pay for) health care services or the use of a medical product, regardless of the theory of liability on which the claim is based or the number of plaintiffs, defendants, or causes of action.

(11) HEALTH CARE LIABILITY CLAIM.—The term "health care liability claim" means a claim in which the claimant alleges that injury was caused by the provision of (or the failure to provide) health care services.

(12) HEALTH CARE PROVIDER.—The term "health care provider" means any person that is engaged in the delivery of health care services in a State and that is required by the laws or regulations of the State to be licensed or certified by the State to engage in the delivery of such services in the State.

(13) HEALTH CARE SERVICE.—The term "health care service" means any service for which payment may be made under a health benefit plan including services related to the delivery or administration of such service.

(14) MEDICAL DEVICE.—The term "medical device" has the meaning given such term in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(15) NONECONOMIC DAMAGES.—The term "noneconomic damages" means damages paid to an individual for pain and suffering, inconvenience, emotional distress, mental anguish, loss of consortium, injury to reputation, humiliation, and other nonpecuniary losses.

(16) PERSON.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.

(17) PRODUCT SELLER.—

(A) IN GENERAL.—Subject to subparagraph (B), the term "product seller" means a person who, in the course of a business conducted for that purpose—

(i) sells, distributes, rents, leases, prepares, blends, packages, labels, or is otherwise involved in placing, a product in the stream of commerce, or

(ii) installs, repairs, or maintains the harm-causing aspect of a product.

(B) EXCLUSION.—Such term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor.

(18) PUNITIVE DAMAGES.—The term "punitive damages" means damages awarded against any person not to compensate for actual injury suffered, but to punish or deter such person or others from engaging in similar behavior in the future.

(19) STATE.—The term "State" means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

SEC. 10803. EFFECTIVE DATE.

This subtitle will apply to any health care liability action brought in a Federal or State court and to any health care liability claim subject to an alternative dispute resolution system, that is initiated on or after the date of enactment of this subtitle, except that any health care liability claim or action arising from an injury occurring prior to the date of enactment of this subtitle shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

CHAPTER 2—UNIFORM STANDARDS FOR HEALTH CARE LIABILITY ACTIONS

SEC. 10811. STATUTE OF LIMITATIONS.

A health care liability action may not be brought after the expiration of the 2-year period that begins on the date on which the alleged injury that is the subject of the action was discovered or should reasonably have been discovered, but in no case after the expiration of the 5-year period that begins on the date the alleged injury occurred.

SEC. 10812. CALCULATION AND PAYMENT OF DAMAGES.

(a) TREATMENT OF NONECONOMIC DAMAGES.—

(1) LIMITATION ON NONECONOMIC DAMAGES.—The total amount of noneconomic damages that may be awarded to a claimant for losses resulting from the injury which is the subject of a health care liability action may not exceed $250,000, regardless of the number of parties against whom the action is brought or the number of actions brought with respect to the injury.

(2) JOINT AND SEVERAL LIABILITY.—In any health care liability action brought in State or Federal court, a defendant shall be liable only for the amount of noneconomic damages attributable to such defendant in direct proportion to such defendant's share of fault or responsibility for the claimant's actual damages, as determined by the trier of fact. In all such cases, the liability of a defendant for noneconomic damages shall be several and not joint.

(b) TREATMENT OF PUNITIVE DAMAGES.—

(1) GENERAL RULE.—Punitive damages may, to the extent permitted by applicable State law, be awarded in any health care liability action for harm in any Federal or State court against a defendant if the claimant establishes by clear and convincing evidence that the harm suffered was the result of conduct—

(A) specifically intended to cause harm, or

(B) conduct manifesting a conscious, flagrant indifference to the rights or safety of others.

(2) PROPORTIONAL AWARDS.—The amount of punitive damages that may be awarded in any health care liability action subject to this subtitle shall not exceed 3 times the amount of damages awarded to the claimant for economic loss, or $250,000, whichever is greater. This paragraph shall be applied by the court and shall not be disclosed to the jury.

(3) APPLICABILITY.—This subsection shall apply to any health care liability action brought in any Federal or State court on any theory where punitive damages are sought. This subsection does not create a cause of action for punitive damages. This subsection does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages.

(4) BIFURCATION.—At the request of any party, the trier of fact shall consider in a separate proceeding whether punitive damages are to be awarded and the amount of such award. If a separate proceeding is requested, evidence relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether actual damages are to be awarded.

(5) DRUGS AND DEVICES.—

(A) IN GENERAL.—(i) Punitive damages shall not be awarded against a manufacturer or product seller of a drug or medical device which caused the claimant's harm where—

(I) such drug or device was subject to premarket approval by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm, or the adequacy of the packaging or labeling of such drug or device which caused the harm, and such drug, device, packaging, or labeling was approved by the Food and Drug Administration; or

(II) the drug is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

(ii) Clause (i) shall not apply in any case in which the defendant, before or after premarket approval of a drug or device—

(I) intentionally and wrongfully withheld from or misrepresented to the Food and Drug Administration information concerning such drug or device required to be submitted under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262) that is material and relevant to the harm suffered by the claimant, or

(II) made an illegal payment to an official or employee of the Food and Drug Administration for the purpose of securing or maintaining approval of such drug or device.

(B) PACKAGING.—In a health care liability action for harm which is alleged to relate to the adequacy of the packaging or labeling of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer or product seller of the drug shall not be held liable for punitive damages unless such packaging or labeling is found by the court by clear and convincing evidence to be substantially out of compliance with such regulations.

(c) PERIODIC PAYMENTS FOR FUTURE LOSSES.—

(1) GENERAL RULE.—In any health care liability action in which the damages awarded for future economic and noneconomic loss exceeds $50,000, a person shall not be required to pay such damages in a single, lump-sum payment, but shall be permitted to make such payments periodically based on when the damages are found likely to occur, as such payments are determined by the court.

(2) FINALITY OF JUDGMENT.—The judgment of the court awarding periodic payments under this subsection may not, in the absence of fraud, be reopened at any time to contest, amend, or modify the schedule or amount of the payments.

(3) LUMP-SUM SETTLEMENTS.—This subsection shall not be construed to preclude a settlement providing for a single, lump-sum payment.

(d) TREATMENT OF COLLATERAL SOURCE PAYMENTS.—

(1) INTRODUCTION INTO EVIDENCE.—In any health care liability action, any defendant may introduce evidence of collateral source payments. If any defendant elects to introduce such evidence, the claimant may introduce evidence of any amount paid or contributed or reasonably likely to be paid or contributed in the future by or on behalf of the claimant to secure the right to such collateral source payments.

(2) NO SUBROGATION.—No provider of collateral source payments shall recover any amount against the claimant or receive any lien or credit against the claimant's recovery or be equitably or legally subrogated the right of the claimant in a health care liability action.

(3) APPLICATION TO SETTLEMENTS.—This subsection shall apply to an action that is settled as well as an action that is resolved by a fact finder.

SEC. 10813. ALTERNATIVE DISPUTE RESOLUTION.

Any ADR used to resolve a health care liability action or claim shall contain provisions relating to statute of limitations, noneconomic damages, joint and several liability, punitive damages, collateral source rule, and periodic payments which are identical to the provisions relating to such matters in this subtitle.

TITLE XI—BUDGET ENFORCEMENT

SEC. 11001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Budget Enforcement Act of 1997".

(b) TABLE OF CONTENTS.—

TITLE XI—BUDGET ENFORCEMENT

Sec. 11001. Short title; table of contents.
Subtitle A—Amendments to the Congressional Budget and Impoundment Control Act of 1974
Sec. 11101. Amendments to section 3.
Sec. 11102. Amendments to section 201.
Sec. 11103. Amendments to section 202.
Sec. 11104. Amendment to section 300.
Sec. 11105. Amendments to section 301.
Sec. 11106. Amendments to section 302.
Sec. 11107. Amendments to section 303.
Sec. 11108. Amendment to section 305.
Sec. 11109. Amendments to section 308.
Sec. 11110. Amendments to section 310.
Sec. 11111. Amendments to section 311.
Sec. 11112. Amendment to section 312.
Sec. 11113. Adjustments and Budget Committee determinations.
Sec. 11114. Effect of self-executing amendments on points of order in the House of Representatives.
Sec. 11115. Amendment of section 401 and repeal of section 402.
Sec. 11116. Repeal of title VI.
Sec. 11117. Amendments to section 904.
Sec. 11118. Repeal of sections 905 and 906.
Sec. 11119. Amendments to sections 1022 and 1024.
Sec. 11120. Amendment to section 1026.
Subtitle B—Amendments to the Balanced Budget and Emergency Deficit Control Act of 1985
Sec. 11201. Purpose.
Sec. 11202. General statement and definitions.
Sec. 11203. Enforcing discretionary spending limits.
Sec. 11204. Violent crime reduction trust fund.
Sec. 11205. Enforcing pay-as-you-go.
Sec. 11206. Reports and orders.
Sec. 11207. Exempt programs and activities.
Sec. 11208. General and special sequestration rules.
Sec. 11209. The baseline.
Sec. 11210. Technical correction.
Sec. 11211. Judicial review.
Sec. 11212. Effective date.
Sec. 11213. Reduction of preexisting balances and exclusion of effects of this Act from paygo scorecard.

Subtitle A—Amendments to the Congressional Budget and Impoundment Control Act of 1974

SEC. 11101. AMENDMENTS TO SECTION 3.

Section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622) is amended—

(1) in paragraph (2)(A), by striking "and" at the end of clause (iii), by striking the period and inserting "; and" at the end of clause (iv), and by adding at the end the following:

"(v) entitlement authority and the food stamp program."; and

(2) in paragraph (9), by inserting ", but such term does not include salary or basic pay funded through an appropriation Act" before the period.

SEC. 11102. AMENDMENTS TO SECTION 201.

(a) TERM OF OFFICE.—The first sentence of section 201(a)(3) of the Congressional Budget Act of 1974 is amended to read as follows: "The term of office of the Director shall be four years and shall expire on January 3 of the year preceding a Presidential election.".

(b) REDESIGNATION OF EXECUTED PROVISION.—Section 201 of the Congressional Budget Act of 1974 is amended by redesignating subsection (g) (relating to revenue estimates) as subsection (f).

SEC. 11103. AMENDMENTS TO SECTION 202.

(a) ASSISTANCE TO BUDGET COMMITTEES.—The first sentence of section 202(a) of the Congressional Budget Act of 1974 is amended by inserting "primary" before "duty".

(b) ELIMINATION OF EXECUTED PROVISION.—Section 202 of the Congressional Budget Act of 1974 is amended by striking subsection (e) and by redesignating subsections (f), (g), and (h) as subsections (e), (f), and (g), respectively.

SEC. 11104. AMENDMENT TO SECTION 300.

The item relating to February 25 in the timetable set forth in section 300 of the Congressional Budget Act of 1974 is amended by striking "February 25" and inserting "Within 6 weeks after President submits budget".

SEC. 11105. AMENDMENTS TO SECTION 301.

(a) TERMS OF BUDGET RESOLUTIONS.—Section 301(a) of the Congressional Budget Act of 1974 is amended by striking ", and planning levels for each of the two ensuing fiscal years," and inserting "and for at least each of the 4 ensuing fiscal years".

(b) CONTENTS OF BUDGET RESOLUTIONS.—Paragraphs (1) and (4) of section 301(a) of the Congressional Budget Act of 1974 are amended by striking ", budget outlays, direct loan obligations, and primary loan guarantee commitments" each place it appears and inserting "and budget outlays".

(c) ADDITIONAL MATTERS.—Section 301(b) of the Congressional Budget Act of 1974 is amended by amending paragraph (7) to read as follows—

"(7) set forth pay-as-you-go procedures in the Senate whereby committee allocations, aggregates, and other levels can be revised for legislation within a committee's jurisdiction if such legislation would not increase the deficit for the first year covered by the resolution and will not increase the deficit for the period of 5 fiscal years covered by the resolution;".

(d) VIEWS AND ESTIMATES.—The first sentence of section 301(d) of the Congressional Budget Act of 1974 is amended by inserting "or at such time as may be requested by the Committee on the Budget," after "Code,".

(e) HEARINGS AND REPORT.—Section 301(e)(2) of the Congressional Budget Act of 1974 is amended by striking "total direct loan obligations, total primary loan guarantee commitments,".

(f) SOCIAL SECURITY CORRECTIONS.—Section 301(i) of the Congressional Budget Act of 1974 is amended by—

(1) inserting "SOCIAL SECURITY POINT OF ORDER.—" after "(i)"; and

(2) striking "as reported to the Senate" and inserting "(or amendment, motion, or conference report on such a resolution)".

SEC. 11106. AMENDMENTS TO SECTION 302.

(a) ALLOCATIONS AND SUBALLOCATIONS.—Subsections (a) and (b) of section 302 of the Congressional Budget Act of 1974 are amended to read as follows:

"(a) COMMITTEE SPENDING ALLOCATIONS.—

"(1) ALLOCATION AMONG COMMITTEES.—The joint explanatory statement accompanying a conference report on a budget resolution shall include allocations, consistent with the resolution recommended in the conference report, of the appropriate levels (for each fiscal year covered by that resolution and a total for all such years, except in the case of the Committee on Appropriations only for the first such fiscal year) of—

"(A) total new budget authority;

"(B) total outlays; and

"(C) in the Senate, social security outlays; among each committee of the House of Representatives or the Senate that has jurisdiction over legislation providing or creating such amounts.

"(2) NO DOUBLE COUNTING.—In the House of Representatives, any item allocated to one committee may not be allocated to another such committee.

"(3) FURTHER DIVISION OF AMOUNTS.—In the House of Representatives, the amounts allocated to each committee for each fiscal year, other than the Committee on Appropriations, shall be further divided between amounts provided or required by law on the date of filing of that conference report and amounts not so provided or required. The amounts allocated to the Committee on Appropriations for each fiscal year shall be further divided between discretionary and mandatory amounts or programs, as appropriate.

"(4) AMOUNTS NOT ALLOCATED.—(A) In the House of Representatives, if a committee receives no allocation of new budget authority or outlays, that committee shall be deemed to have received an allocation equal to zero for new budget authority or outlays.

"(B) In the Senate, if a committee receives no allocation of new budget authority, outlays, or social security outlays, that committee shall be deemed to have received an allocation equal to zero for new budget authority, outlays, or social security outlays.

"(5) SOCIAL SECURITY LEVELS IN THE SENATE.—

"(A) IN GENERAL.—For purposes of paragraph (1)(C), social security surpluses equal the excess of social security revenues over social security outlays in a fiscal year or years with such an excess and social security deficits equal the excess of social security outlays over social security revenues in a fiscal year or years with such an excess.

"(B) TAX TREATMENT.—For purposes of paragraph (1)(C), no provision of any legislation involving a change in chapter 1 of the Internal Revenue Code of 1986 shall be treated as affecting the amount of social security revenues or outlays unless such provision changes the income tax treatment of social security benefits.

"(6) ADJUSTING ALLOCATION OF DISCRETIONARY SPENDING IN THE HOUSE OF REPRESENTATIVES.—(A) If a concurrent resolution on the budget is not adopted by April 15, the chairman of the Committee on the Budget of the House of Representatives shall submit to the House, as soon as practicable, an allocation under paragraph (1) to the Committee on Appropriations consistent with the discretionary spending limits contained in the most recently agreed to concurrent resolution on the budget for the second fiscal year covered by that resolution.

"(B) As soon as practicable after an allocation under paragraph (1) is submitted under this section, the Committee on Appropriations shall make suballocations and promptly report those suballocations to the House of Representatives.

"(b) SUBALLOCATIONS BY APPROPRIATION COMMITTEES.—As soon as practicable after a concurrent resolution on the budget is agreed to, the Committee on Appropriations of each House (after consulting with the Committee on Appropriations of the other House) shall suballocate each amount allocated to it for the budget year under subsection (a) among its subcommittees. Each Committee on Appropriations shall promptly report to its House suballocations made or revised under this paragraph.".

(b) POINT OF ORDER.—Section 302(c) of the Congressional Budget Act of 1974 is amended to read as follows:

"(c) POINT OF ORDER.—After the Committee on Appropriations has received an allocation pursuant to subsection (a) for a fiscal year, it shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report providing new budget authority for that fiscal year within the jurisdiction of that committee, until such committee makes the suballocations required by subsection (b).".

(c) ENFORCEMENT OF POINT OF ORDER.—(1) Section 302(f)(1) of the Congressional Budget Act of 1974 is amended by—

(A) striking "providing new budget authority for such fiscal year or new entitlement authority effective during such fiscal year" and inserting "providing new budget authority for any fiscal year covered by the concurrent resolution";

(B) striking "appropriate allocation made pursuant to subsection (b) for such fiscal year" and inserting "appropriate allocation made under subsection (a) or any suballocation made under subsection (b), as applicable, for the fiscal year of the concurrent resolution or for the total of all fiscal years covered by the concurrent resolution"; and

(C) striking "of new discretionary budget authority or new entitlement authority to be exceeded" and inserting "of new discretionary budget authority to be exceeded".

(2) Section 302(f)(2) of the Congressional Budget Act of 1974 is amended to read as follows:

"(2) ENFORCEMENT OF COMMITTEE ALLOCATIONS AND SUBALLOCATIONS IN THE SENATE.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause—

"(A) in the case of any committee except the Committee on Appropriations, the appropriate allocation of new budget authority or outlays under subsection (a) to be exceeded; or

"(B) in the case of the Committee on Appropriations, the appropriate suballocation of new budget authority or outlays under subsection (b) to be exceeded.".

(d) SEPARATE ALLOCATIONS.—Section 302(g) of the Congressional Budget Act of 1974 is amended to read as follows:

"(g) SEPARATE ALLOCATIONS.—The Committees on Appropriations and the Budget shall make separate allocations and suballocations under this section consistent with the categories in section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985."

SEC. 11107. AMENDMENTS TO SECTION 303.

(a) IN GENERAL.—Section 303 of the Congressional Budget Act of 1974 is amended to read as follows:

"CONCURRENT RESOLUTION ON THE BUDGET MUST BE ADOPTED BEFORE LEGISLATION PROVIDING NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, OR CHANGES IN REVENUES OR THE PUBLIC DEBT LIMIT IS CONSIDERED

"SEC. 303. (a) IN GENERAL.—It shall not be in order in either the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report as reported to the House or Senate which provides—

"(1) new budget authority for a fiscal year;

"(2) an increase or decrease in revenues to become effective during a fiscal year;

"(3) an increase or decrease in the public debt limit to become effective during a fiscal year;

"(4) in the Senate only, new spending authority (as defined in section 401(c)(2)) for a fiscal year; or

"(5) in the Senate only, outlays,

until the concurrent resolution on the budget for such fiscal year (or, in the Senate, a concurrent resolution on the budget covering such fiscal year) has been agreed to pursuant to section 301.

"(b) EXCEPTIONS.—(1) In the House of Representatives, subsection (a) does not apply to any bill or resolution—

"(A) providing advance discretionary new budget authority which first becomes available in a fiscal year following the fiscal year to which the concurrent resolution applies; or

"(B) increasing or decreasing revenues which first become effective in a fiscal year following the fiscal year to which the concurrent resolution applies.

After May 15 of any calendar year, subsection (a) does not apply in the House of Representatives to any general appropriation bill, or amendment thereto, which provides new budget authority for the fiscal year beginning in such calendar year.

"(2) In the Senate, subsection (a) does not apply to any bill or resolution making advance appropriations for the fiscal year to which the concurrent resolution applies and the two succeeding fiscal years.

(b) CONFORMING AMENDMENT.—The item relating to section 303 in the table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "new credit authority,".

SEC. 11108. AMENDMENT TO SECTION 305.

Section 305(a)(1) of the Congressional Budget Act of 1974 is amended by inserting "when the House is not in session" after "holidays" each place it appears.

SEC. 11109. AMENDMENTS TO SECTION 308.

Section 308 of the Congressional Budget Act of 1974 is amended—

(1)(A) in the side heading of subsection (a), by striking "OR NEW CREDIT AUTHORITY," and by striking the first comma and inserting "OR";

(B) in paragraphs (1) and (2) of subsection (a), by striking "or new credit authority," each place it appears and by striking the comma before "new spending authority" each place it appears and inserting "or";

(2) in subsection (b)(1), by striking "or new credit authority," and by striking the comma before "new spending authority" and inserting "or";

(3) in subsection (c), by inserting "and" after the semicolon at the end of paragraph (3), by striking "; and" at the end of paragraph (4) and inserting a period; and by striking paragraph (5); and

(4) by inserting "joint" before "resolution" each place it appears and, in subsection (b)(1), by inserting "joint" before "resolutions".

SEC. 11110. AMENDMENTS TO SECTION 310.

Section 310 of the Congressional Budget Act of 1974 is amended by—

(1) in subsection (a)(1), by inserting "and" after the semicolon at the end of subparagraph (B), by striking "subparagraphs (C) and (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) direct spending (as defined in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985),"; and

(2) in subsection (c)(1)(A), by inserting "of the absolute value" after "20 percent" each place it appears.

SEC. 11111. AMENDMENTS TO SECTION 311.

Section 311 of the Congressional Budget Act of 1974 is amended to read as follows:

"NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, AND REVENUE LEGISLATION MUST BE WITHIN APPROPRIATE LEVELS

"SEC. 311. (a) ENFORCEMENT OF BUDGET AGGREGATES.—

"(1) IN THE HOUSE OF REPRESENTATIVES.—Except as provided by subsection (c), after the Congress has completed action on a concurrent resolution on the budget for a fiscal year, it shall not be in order in the House of Representatives to consider any bill, joint resolution, amendment, motion, or conference report providing new budget authority for such fiscal year or reducing revenues for such fiscal year, if—

"(A) the enactment of such bill or resolution as reported;

"(B) the adoption and enactment of such amendment; or

"(C) the enactment of such bill or resolution in the form recommended in such conference report;

would cause the appropriate level of total new budget authority or total budget outlays set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year to be exceeded, or would cause revenues to be less than the appropriate level of total revenues set forth in such concurrent resolution such fiscal year or for the total of all fiscal years covered by the concurrent resolution, except in the case that a declaration of war by the Congress is in effect.

"(2) IN THE SENATE.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, resolution, amendment, motion, or conference report that—

"(A) would cause the appropriate level of total new budget authority or total outlays set forth for the first fiscal year in such resolution to be exceeded; or

"(B) would cause revenues to be less than the appropriate level of total revenues set forth for the first fiscal year covered by such resolution or for the period including the first fiscal year plus the following 4 fiscal years in such resolution.

"(3) ENFORCEMENT OF SOCIAL SECURITY LEVELS IN THE SENATE.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, resolution, amendment, motion, or conference report that would cause a decrease in social security surpluses or an increase in social security deficits derived from the levels of social security revenues and social security outlays set forth for the first fiscal year covered by the resolution and for the period including the first fiscal year plus the following 4 fiscal years in such resolution.

"(b) SOCIAL SECURITY LEVELS.—

"(1) IN GENERAL.—For the purposes of subsection (a)(3), social security surpluses equal the excess of social security revenues over social security outlays in a fiscal year or years with such an excess and social security deficits equal the excess of social security outlays over social security revenues in a fiscal year or years with such an excess.

"(2) TAX TREATMENT.—For the purposes of this section, no provision of any legislation involving a change in chapter 1 of the Internal Revenue Code of 1986 shall be treated as affecting the amount of social security revenues or outlays unless such provision changes the income tax treatment of social security benefits.

"(c) EXCEPTION IN THE HOUSE OF REPRESENTATIVES.—Subsection (a)(1) shall not apply in the House of Representatives to any bill, resolution, or amendment that provides new budget authority for a fiscal year or to any conference report on any such bill or resolution, if—

"(1) the enactment of such bill or resolution as reported;

"(2) the adoption and enactment of such amendment; or

"(3) the enactment of such bill or resolution in the form recommended in such conference report;

would not cause the appropriate allocation of new budget authority made pursuant to section 302(a) for such fiscal year, for the committee within whose jurisdiction such bill, resolution, or amendment falls, to be exceeded.".

SEC. 11112. AMENDMENT TO SECTION 312.

(a) IN GENERAL.—Section 312 of the Congressional Budget Act of 1974 is amended to read as follows:

"POINTS OF ORDER

"SEC. 312. (a) BUDGET COMMITTEE DETERMINATIONS.—For purposes of this title and title IV, the levels of new budget authority, budget outlays, spending authority as described in section 401(c)(2), direct spending, new entitlement authority, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as the case may be.

"(b) DISCRETIONARY SPENDING POINT OF ORDER IN THE SENATE.—

"(1) Except as otherwise provided in this subsection, it shall not be in order in the Senate to consider any concurrent resolution on the budget (or amendment, motion, or conference report on such a resolution) that would exceed any of the discretionary spending limits in section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(2) This subsection shall not apply if a declaration of war by the Congress is in effect or if a joint resolution pursuant to section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985 has been enacted.

"(c) MAXIMUM DEFICIT AMOUNT POINT OF ORDER IN THE SENATE.—It shall not be in order in the Senate to consider any concurrent resolution on the budget for a fiscal year under section 301, or to consider any amendment to that concurrent resolution, or to consider a conference report on that concurrent resolution—

"(1) if the level of total budget outlays for the first fiscal year that is set forth in that concurrent resolution or conference report exceeds the recommended level of Federal revenues set forth for that year by an amount that is greater than the maximum deficit amount, if any, specified in the Balanced Budget and Emergency Deficit Control Act of 1985 for such fiscal year; or

"(2) if the adoption of such amendment would result in a level of total budget outlays for that fiscal year which exceeds the recommended level of Federal revenues for that fiscal year, by an amount that is greater than the maximum deficit amount, if any, specified in the Balanced Budget and Emergency Deficit Control Act of 1985 for such fiscal year.

"(d) TIMING OF POINTS OF ORDER IN THE SENATE.—A point of order under this Act may not be raised against a bill, resolution, amendment, motion, or conference report while an amendment or motion, the adoption of which would remedy the violation of this Act, is pending before the Senate.

"(e) POINTS OF ORDER IN THE SENATE AGAINST AMENDMENTS BETWEEN THE HOUSES.—Each provision of this Act that establishes a point of order against an amendment also establishes a point of order in the Senate against an amendment between the Houses. If a point of order under this Act is raised in the Senate against an amendment between the Houses, and the Presiding Officer sustains the point of order, the effect shall be the same as if the Senate had disagreed to the amendment.

"(f) EFFECT OF A POINT OF ORDER ON A BILL IN THE SENATE.—In the Senate, if the Chair sustains a point of order under this Act against a bill, the Chair shall then send the bill to the committee of appropriate jurisdiction for further consideration.".

(b) CONFORMING AMENDMENT.—The item relating to section 312 in the table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "Effect of point" and inserting "Point".

SEC. 11113. ADJUSTMENTS AND BUDGET COMMITTEE DETERMINATIONS.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"ADJUSTMENTS

"SEC. 314. (a) ADJUSTMENTS.—When—

"(1)(A) the Committee on Appropriations reports an appropriation measure for fiscal year 1998, 1999, 2000, 2001, or 2002 that specifies an amount for emergencies pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 or for continuing disability reviews pursuant to section 251(b)(2)(C) of that Act;

"(B) any other committee reports emergency legislation described in section 252(e) of that Act;

"(C) the Committee on Appropriations reports an appropriation measure for fiscal year 1998, 1999, 2000, 2001, or 2002 that includes an appropriation with respect to clause (i) or (ii), the adjustment shall be the amount of budget authority in the measure that is the dollar equivalent, in terms of Special Drawing Rights, of—

"(i) increases the United States quota as part of the International Monetary Fund Eleventh General Review of Quotas (United States Quota); or

"(ii) increases the maximum amount available to the Secretary of the Treasury pursuant to section 17 of the Bretton Woods Agreement Act, as amended from time to time (New Arrangements to Borrow); or

"(D) the Committee on Appropriations reports an appropriation measure for fiscal year 1998, 1999, or 2000 that includes an appropriation for arrearages for international organizations, international peacekeeping, and multilateral development banks during that fiscal year, and the sum of the appropriations for the period of fiscal years 1998 through 2000 do not exceed $1,884,000,000 in budget authority; or

"(2) a conference committee submits a conference report thereon;

the chairman of the Committee on the Budget of the Senate or House of Representatives shall make the adjustments referred to in subsection (c) to reflect the additional new budget authority for such matter provided in that measure or conference report and the additional outlays flowing in all fiscal years from such amounts for such matter.

"(b) APPLICATION OF ADJUSTMENTS.—The adjustments and revisions to allocations, aggregates, and limits made by the Chairman of the Committee on the Budget pursuant to subsection (a) for legislation shall only apply while such legislation is under consideration and shall only permanently take effect upon the enactment of that legislation.

"(c) CONTENT OF ADJUSTMENTS.—The adjustments referred to in subsection (a) shall consist of adjustments, as appropriate, to—

"(1) the discretionary spending limits as set forth in the most recently agreed to concurrent resolution on the budget;

"(2) the allocations made pursuant to the most recently adopted concurrent resolution on the budget pursuant to section 302(a); and

"(3) the budgetary aggregates as set forth in the most recently adopted concurrent resolution on the budget.

"(d) REPORTING REVISED SUBALLOCATIONS.—Following the adjustments made under subsection (a), the Committees on Appropriations of the Senate and the House of Representatives may report appropriately revised suballocations pursuant to section 302(b) to carry out this subsection.

"(e) DEFINITIONS.—As used in subsection (a)(1)(A), when referring to continuing disability reviews, the terms 'continuing disability reviews', 'additional new budget authority', and 'additional outlays' shall have the same meanings as provided in section 251(b)(2)(C)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(b) CONFORMING AMENDMENTS.—(1) Sections 302(g), 311(c), and 313(e) of the Congressional Budget Act of 1974 are repealed.

(2) The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 313 the following new item:

"Sec. 314. Adjustments.".

SEC. 11114. EFFECT OF SELF-EXECUTING AMENDMENTS ON POINTS OF ORDER IN THE HOUSE OF REPRESENTATIVES.

(a) EFFECT OF POINTS OF ORDER.—Title III of the Congressional Budget Act of 1974 is amended by adding after section 314 the following new section:

"EFFECT OF SELF-EXECUTING AMENDMENTS ON POINTS OF ORDER IN THE HOUSE OF REPRESENTATIVES

"SEC. 315. In the House of Representatives, if a provision of a bill, as reported, violates a section of this title or title IV and a self-executing rule providing for consideration of

that bill modifies that provision to eliminate such violation, then such point of order shall not lie against consideration of that bill.".

(b) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 314 the following new item:

"Sec. 315. Effect of self-executing amendments on points of order in the house of representatives.".

SEC. 11115. AMENDMENT OF SECTION 401 AND REPEAL OF SECTION 402.

(a) SECTION 401.—Subsections (a) and (b) of section 401 of the Congressional Budget Act of 1974 are amended to read as follows:

"BILLS PROVIDING NEW SPENDING AUTHORITY OR NEW CREDIT AUTHORITY

"SEC. 401. (a) CONTROLS ON LEGISLATION PROVIDING SPENDING AUTHORITY OR CREDIT AUTHORITY.—It shall not be in order in either the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report, as reported to its House which provides new spending authority described in subsection (c)(2)(A) or (B) or new credit authority, unless that bill, resolution, conference report, or amendment also provides that such new spending authority as described in subsection (c)(2) (A) or (B) or new credit authority is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

"(b) LEGISLATION PROVIDING ENTITLEMENT AUTHORITY.—It shall not be in order in either the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report, as reported to its House which provides new spending authority described in subsection (c)(2)(C) which is to become effective before the first day of the fiscal year which begins during the calendar year in which such bill or resolution is reported.".

(b) REPEALER OF SECTION 402.—(1) Section 402 of the Congressional Budget Act of 1974 is repealed.

(2) CONFORMING AMENDMENTS.—(1) Sections 403 through 407 of the Congressional Budget Act of 1974 are redesignated as sections 402 through 406, respectively.

(2) The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by deleting the item relating to section 402 and by redesignating the items relating to sections 403 through 407 as the items relating to sections 402 through 406, respectively.

SEC. 11116. REPEAL OF TITLE VI.

(a) REPEALER.—Title VI of the Congressional Budget Act of 1974 is repealed.

(b) CONFORMING AMENDMENTS.—The items relating to title VI of the table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 are repealed.

SEC. 11117. AMENDMENTS TO SECTION 904.

(a) CONFORMING AMENDMENT.—Section 904(a) of the Congressional Budget Act of 1974 is amended by striking "(except section 905)" and by striking "V, and VI (except section 601(a))" and inserting "and V".

(b) WAIVERS.—Section 904(c) of the Congressional Budget Act of 1974 is amended to read as follows:

"(c) WAIVERS.—

"(1) Sections 305(b)(2), 305(c)(4), 306, 310(d)(2), 313, 904(c), and 904(d) of this Act may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

"(2) Sections 301(i), 302(c), 302(f), 310(g), 311(a), and 315 of this Act and sections 258(a)(4)(C), 258(A)(b)(3)(C)(I), 258(B)(f)(1), 258B(h)(1), 258(h)(3), 258C(a)(5), and 258(C)(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.".

(c) APPEALS.—Section 904(d) of the Congressional Budget Act of 1974 is amended to read as follows:

"(d) APPEALS.—

"(1) Appeals in the Senate from the decisions of the Chair relating to any provision of title III or IV of section 1017 shall, except as otherwise provided therein, be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, concurrent resolution, reconciliation bill, or rescission bill, as the case may be.

"(2) An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under sections 305(b)(2), 305(c)(4), 306, 310(d)(2), 313, 904(c), and 904(d) of this Act.

"(3) An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under sections 301(i), 302(c), 302(f), 310(g), 311(a), and 315 of this Act and sections 258(a)(4)(C), 258(A)(b)(3)(C)(I), 258(B)(f)(1), 258B(h)(1), 258(h)(3), 258C(a)(5), and 258(C)(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(d) EXPIRATION OF SUPERMAJORITY VOTING REQUIREMENTS.—Section 904 of the Congressional Budget Act of 1974 is amended by adding at the end the following:

"(e) EXPIRATION OF CERTAIN SUPERMAJORITY VOTING REQUIREMENTS.—Subsections (c)(2) and (d)(3) shall expire on September 30, 2002.".

SEC. 11118. REPEAL OF SECTIONS 905 AND 906.

(a) REPEALER.—Sections 905 and 906 of the Congressional Budget and Impoundment Control Act of 1974 are repealed.

(b) CONFORMING AMENDMENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the items relating to sections 905 and 906.

SEC. 11119. AMENDMENTS TO SECTIONS 1022 AND 1024.

(a) SECTION 1022.—Section 1022(b)(1)(F) of Congressional Budget and Impoundment Control Act of 1974 is amended by striking "section 601" and inserting "section 251(c) the Balanced Budget and Emergency Deficit Control Act of 1985".

(b) SECTION 1024.—Section 1024(a)(1)(B) of Congressional Budget and Impoundment Control Act of 1974 is amended by striking "section 601(a)(2)" and inserting "section 251(c) the Balanced Budget and Emergency Deficit Control Act of 1985".

SEC. 11120. AMENDMENT TO SECTION 1026.

Section 1026(7)(A)(iv) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "and" and inserting "or".

Subtitle B—Amendments to the Balanced Budget and Emergency Deficit Control Act of 1985

SEC. 11201. PURPOSE.

This subtitle extends discretionary spending limits and pay-as-you-go requirements.

SEC. 11202. GENERAL STATEMENT AND DEFINITIONS.

(a) GENERAL STATEMENT.—Section 250(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(b)) is amended by striking the first two sentences and inserting the following: "This part provides for the enforcement of a balanced budget by fiscal year 2002 as called for in House Concurrent Resolution 84 (105th Congress, 1st session).".

(b) DEFINITIONS.—Section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking paragraph (4) and inserting the following:

"(4) The term 'category' means defense, nondefense, and violent crime reduction discretionary appropriations as specified in the joint explanatory statement accompanying a conference report on the Balanced Budget Act of 1997.";

(2) by striking paragraph (6) and inserting the following:

"(6) The term 'budgetary resources' means new budget authority, unobligated balances, direct spending authority, and obligation limitations.";

(3) in paragraph (9), by striking "submission of the fiscal year 1992 budget that are not included with a budget submission" and inserting "that budget submission that are not included with it";

(4) in paragraph (14), by inserting "first 4" before "fiscal years" and by striking "1995" and inserting "2006";

(5) by striking paragraphs (17) and (20) and by redesignating paragraphs (18), (19), and (21) as paragraphs (17), (18), and (19), respectively;

(6) in paragraph (17) (as redesignated), by striking "Omnibus Budgtet Reconciliation Act of 1990" and inserting "Balanced Budget Act of 1997";

(7) in paragraph (20) (as redesignated), by striking the second sentence; and

(8) by adding at the end the following new paragraph:

"(20) The term 'consultation', when applied to the Committee on the Budget of either the House of Representatives or of the Senate, means written communication with that committee that affords that committee an opportunity to comment on the matter that is the subject of the consultation before official action is taken on such matter.".

SEC. 11203. ENFORCING DISCRETIONARY SPENDING LIMITS.

(a) EXTENSION THROUGH FISCAL YEAR 2002.—Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in the side heading of subsection (a), by striking "1991–1998" and inserting "1997–2002";

(2) in subsection (a)(7) by inserting "(excluding Saturdays, Sundays, or legal holidays)" after "5 calendar days";

(3) in the first sentence of subsection (b)(1), by striking "1992, 1993, 1994, 1995, 1996, 1997 or 1998" and inserting "1997 or any fiscal year thereafter through 2002" and by striking "through 1998" and inserting "through 2002";

(4) in subsection (b)(1), by striking "the following:" and all that follows through "in concepts and definitions" the first place it appears and inserting "the following: the adjustments" and by striking subparagraphs (B) and (C);

(5) in subsection (b)(2), by striking "1991, 1992, 1993, 1994, 1995, 1996, 1997, or 1998" and inserting "1997 or any fiscal year thereafter through 2002", by striking "through 1998" and inserting "through 2002", and by striking subparagraphs (A), (B), (C), (E), and (G), and by redesignating subparagraphs (D), (F), and (H) as subparagraphs (A), (B), and (C), respectively;

(6) in subsection (b)(2)(A) (as redesignated), by striking "(i)", by striking clause (ii), and by inserting "fiscal" before "years";

(7) in subsection (b)(2)(B) (as redesignated), by striking everything after "the adjustment in outlays" and inserting "for a fiscal year is the amount of the excess but not to exceed 0.5 percent of the adjusted discretionary spending limit on outlays for that fiscal year in fiscal year 1997 or any fiscal year thereafter through 2002; and

(8) by adding at the end of subsection (b)(2) the following new subparagraphs:

"(D) ALLOWANCE FOR IMF.—If an appropriations bill or joint resolution is enacted for fiscal year 1998, 1999, 2000, 2001, or 2002 that includes an appropriation with respect to clause (i) or (ii), the adjustment shall be the amount of budget authority in the measure that is the dollar equivalent, in terms of Special Drawing Rights, of—

"(i) an increase in the United States quota as part of the International Monetary Fund Eleventh General Review of Quotas (United States Quota); or

"(ii) any increase in the maximum amount available to the Secretary of the Treasury pursuant to section 17 of the Bretton Woods Agreement Act, as amended from time to time (New Arrangements to Borrow).

"(E) ALLOWANCE FOR INTERNATIONAL ARREARAGES.—

"(i) ADJUSTMENTS.—If an appropriations bill or joint resolution is enacted for fiscal year 1998, 1999, or 2000 that includes an appropriation for arrearages for international organizations, international peacekeeping, and multilateral banks for that fiscal year, the adjustment shall be the amount of budget authority in such measure and the outlays flowing in all fiscal years from such budget authority.

"(ii) LIMITATIONS.—The total amount of adjustments made pursuant to this subparagraph for the period of fiscla years 1998 through 2000 shall not exceed $1,884,000,000 in budget authority.".

(b) SHIFTING OF DISCRETIONARY SPENDING LIMITS INTO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new subsection:

"(c) DISCRETIONARY SPENDING LIMIT.—As used in this part, the term 'discretionary spending limit' means—

"(1) with respect to fiscal year 1997, for the discretionary category, the current adjusted amount of new budget authority and outlays;

"(2) with respect to fiscal year 1998—

"(A) for the defense category: $269,000,000,000 in new budget authority and $266,823,000,000 in outlays;

"(B) for the nondefense category: $252,357,000,000 in new budget authority and $282,853,000,000 in outlays; and

"(C) for the violent crime reduction category: $5,500,000,000 in new budget authority and $3,592,000,000 in outlays;

"(3) with respect to fiscal year 1999—

"(A) for the defense category: $271,500,000,000 in new budget authority and $266,518,000,000 in outlays; and

"(B) for the nondefense category: $261,499,000,000 in new budget authority and $292,803,000,000 in outlays;

"(4) with respect to fiscal year 2000, for the discretionary category: $537,193,000,000 in new budget authority and $564,265,000,000 in outlays;

"(5) with respect to fiscal year 2001, for the discretionary category: $542,032,000,000 in new budget authority and $564,396,000,000 in outlays; and

"(6) with respect to fiscal year 2002, for the discretionary category: $551,074,000,000 in new budget authority and $560,799,000,000 in outlays;

as adjusted in strict conformance with subsection (b).".

SEC. 11204. VIOLENT CRIME REDUCTION TRUST FUND.

(a) SEQUESTRATION REGARDING VIOLENT CRIME REDUCTION TRUST FUND.—Section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985 is repealed.

(b) CONFORMING AMENDMENT.—Section 310002 of Public Law 103-322 (42 U.S.C. 14212) is repealed.

SEC. 11205. ENFORCING PAY-AS-YOU-GO.

(a) EXTENSION.—Section 252 (2 U.S.C. 902) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) PURPOSE.—The purpose of this section is to assure that any legislation enacted prior to September 30, 2002, affecting direct spending or receipts that increases the deficit will trigger an offsetting sequestration.

"(b) SEQUESTRATION.—

"(1) TIMING.—Within 15 calendar days after Congress adjourns to end a session and on the same day as a sequestration (if any) under sections 251 and 253, there shall be a sequestration to offset the amount of any net deficit increase in the budget year caused by all direct spending and receipts legislation (after adjusting for any prior sequestration as provided by paragraph (2)) plus any net deficit increase in the prior fiscal year caused by all direct spending and receipts legislation not reflected in the final OMB sequestration report for that year.

"(2) CALCULATION OF DEFICIT INCREASE.—OMB shall calculate the amount of deficit increase, if any, in the budget year by adding—

"(A) all applicable estimates of direct spending and receipts legislation transmitted under subsection (d) applicable to the budget year, other than any amounts included in such estimates resulting from—

"(i) full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment of this section; and

"(ii) emergency provisions as designated under subsection (e); and

"(B) the estimated amount of savings in direct spending programs applicable to the budget year resulting from the prior year's sequestration under this section or section 253, if any (except for any amounts sequestered as a result of any deficit increase in the fiscal year immediately preceding the prior fiscal year), as published in OMB's final sequestration report for that prior year; and

"(C) all applicable estimates of direct spending and receipts legislation transmitted under subsection (d) for the current year that are not reflected in the final OMB sequestration report for that year, other than any amounts included in such estimates resulting from emergency provisions as designated under subsection (e).";

(2) by amending subsection (c)(1)(B), by inserting "and direct" after "guaranteed";

(3) by amending subsection (d) to read as follows:

"(d) ESTIMATES.—

"(1) CBO ESTIMATES.—As soon as practicable after Congress completes action on any direct spending or receipts legislation, CBO shall provide an estimate of the budgetary effects of that legislation.

"(2) OMB ESTIMATES.—Not later than 5 calendar days (excluding Saturdays, Sundays, or legal holidays) after the enactment of any direct spending or receipts legislation, OMB shall transmit a report to the House of Representatives and to the Senate containing—

"(A) the CBO estimate of the budgetary effects of that legislation;

"(B) an OMB estimate of the budgetary effects of that legislation using current economic and technical assumptions; and

"(C) an explanation of any difference between the two estimates.

"(3) SCOPE OF ESTIMATES.—The estimates under this section shall include the amount of change in outlays or receipts, as the case may be, for the current year (if applicable), the budget year, and each outyear.

"(4) SCOREKEEPING GUIDELINES.—OMB and CBO, after consultation with each other and the Committees on the Budget of the House of Representatives and the Senate, shall—

"(A) determine common scorekeeping guidelines; and

"(B) in conformance with such guidelines, prepare estimates under this section."; and

(4) in subsection (e), by striking ", for any fiscal year from 1991 through 1998," and by striking "through 1995".

SEC. 11206. REPORTS AND ORDERS.

Section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking subsection (c) and redesignating subsections (d) through (k) as (c) through (j), respectively;

(2) in subsection (c)(2) (as redesignated), by striking "1998" and inserting "2002"; and

(3)(A) in subsection (f)(2)(A) (as redesignated), by striking "1998" and inserting "2002"; and

(B) in subsection (f)(3) (as redesignated), by striking "through 1998".

SEC. 11207. EXEMPT PROGRAMS AND ACTIVITIES.

(a) VETERANS PROGRAMS.—Section 255(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) In the item relating to Veterans Insurance and Indemnity, strike "Indemnity" and insert "Indemnities".

(2) In the item relating to Veterans' Canteen Service Revolving Fund, strike "Veterans'".

(3) In the item relating to Benefits under chapter 21 of title 38, strike "(36-0137-0-1-702)" and insert "(36-0120-0-1-701)".

(4) In the item relating to Veterans' compensation, strike "Veterans' compensation" and insert "Compensation".

(5) In the item relating to Veterans' pensions, strike "Veterans' pensions" and insert "Pensions".

(6) After the last item, insert the following new items:

"Benefits under chapter 35 of title 38, United States Code, related to educational assistance for survivors and dependents of certain veterans with service-connected disabilities (36-0137-0-1-702);

"Assistance and services under chapter 31 of title 38, United States Code, relating to training and rehabilitation for certain veterans with service-connected disabilities (36-0137-0-1-702);

"Benefits under subchapters I, II, and III of chapter 37 of title 38, United States Code, relating to housing loans for certain veterans and for the spouses and surviving spouses of certain veterans Guaranty and Indemnity Program Account (36-1119-0-1-704);

"Loan Guaranty Program Account (36-1025-0-1-704); and

"Direct Loan Program Account (36-1024-0-1-704).".

(b) CERTAIN PROGRAM BASES.—Section 255(f) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(f) OPTIONAL EXEMPTION OF MILITARY PERSONNEL.—

"(1) The President may, with respect to any military personnel account, exempt that account from sequestration or provide for a lower uniform percentage reduction than would otherwise apply.

"(2) The President may not use the authority provided by paragraph (1) unless he notifies the Congress of the manner in which such authority will be exercised on or before the date specified in section 254(a) for the budget year.".

(c) OTHER PROGRAMS AND ACTIVITIES.—(1) Section 255(g)(1)(A) of the Balanced Budget Emergency Deficit Control Act of 1985 is amended as follows:

(A) After the first item, insert the following new item:

"Activities financed by voluntary payments to the Government for goods or services to be provided for such payments;".

(B) Strike "Thrift Savings Fund (26-8141-0-7-602);".

(C) In the first item relating to the Bureau of Indian Affairs, insert "Indian land and water claims settlements and" after the comma.

(D) In the second item relating to the Bureau of Indian Affairs, strike "miscellaneous" and insert "Miscellaneous" and strike ", tribal trust funds".

(E) Strike "Claims, defense (97-0102-0-1-051);".

(F) In the item relating to Claims, judgments, and relief acts, strike "806" and insert "808".

(G) Strike "Coinage profit fund (20-5811-0-2-803)".

(H) Insert "Compact of Free Association (14-0415-0-1-808);" after the item relating to the Claims, judgments, and relief acts.

(I) Insert "Conservation Reserve Program (12-2319-0-1-302);" after the item relating to the Compensation of the President.

(J) In the item relating to the Customs Service, strike "852" and insert "806".

(K) In the item relating to the Comptroller of the Currency, insert ", Assessment funds (20-8413-0-8-373)" before the semicolon.

(L) Strike "Director of the Office of Thrift Supervision;".

(M) Strike "Eastern Indian land claims settlement fund (14-2202-0-1-806);".

(N) After the item relating to the Exchange stabilization fund, insert the following new items:

"Farm Credit Administration, Limitation on Administrative Expenses (78-4131-0-3-351);

"Farm Credit System Financial Assistance Corporation, interest payment (20-1850-0-1-908);".

(O) Strike "Federal Deposit Insurance Corporation;".

(P) In the first item relating to the Federal Deposit Insurance Corporation, insert "(51-4064-0-3-373)" before the semicolon.

(Q) In the second item relating to the Federal Deposit Insurance Corporation, insert "(51-4065-0-3-373)" before the semicolon.

(R) In the third item relating to the Federal Deposit Insurance Corporation, insert "(51-4066-0-3-373)" before the semicolon.

(S) In the item relating to the Federal Housing Finance Board, insert "(95-4039-0-3-371)" before the semicolon.

(T) In the item relating to the Federal payment to the railroad retirement account, strike "account" and insert "accounts".

(U) In the item relating to the health professions graduate student loan insurance fund, insert "program account" after "fund" and strike "(Health Education Assistance Loan Program) (75-4305-0-3-553)" and insert "(75-0340-0-1-552)".

(V) In the item relating to Higher education facilities, strike "and insurance".

(W) In the item relating to Internal revenue collections for Puerto Rico, strike "852" and insert "806".

(X) Amend the item relating to the Panama Canal Commission to read as follows:

"Panama Canal Commission, Panama Canal Revolving Fund (95-4061-0-3-403);".

(Y) In the item relating to the Medical facilities guarantee and loan fund, strike "(75-4430-0-3-551)" and insert "(75-9931-0-3-550)".

(Z) In the first item relating to the National Credit Union Administration, insert "operating fund (25-4056-0-3-373)" before the semicolon.

(AA) In the second item relating to the National Credit Union Administration, strike "central" and insert "Central" and insert "(25-4470-0-3-373)" before the semicolon.

(BB) In the third item relating to the National Credit Union Administration, strike "credit" and insert "Credit" and insert "(25-4468-0-3-373)" before the semicolon.

(CC) After the third item relating to the National Credit Union Administration, insert the following new item:

"Office of Thrift Supervision (20-4108-0-3-373);".

(DD) In the item relating to Payments to health care trust funds, strike "572" and insert "571".

(EE) Strike "Compact of Free Association, economic assistance pursuant to Public Law 99-658 (14-0415-0-1-806);".

(FF) In the item relating to Payments to social security trust funds, strike "571" and insert "651".

(GG) Strike "Payments to state and local government fiscal assistance trust fund (20-2111-0-1-851);".

(HH) In the item relating to Payments to the United States territories, strike "852" and insert "806".

(II) Strike "Resolution Funding Corporation;".

(JJ) In the item relating to the Resolution Trust Corporation, insert "Revolving Fund (22-4055-0-3-373)" before the semicolon.

(KK) After the item relating to the Tennessee Valley Authority funds, insert the following new items:

"Thrift Savings Fund;

"United States Enrichment Corporation (95-4054-0-3-271);

"Vaccine Injury Compensation (75-0320-0-1-551);

"Vaccine Injury Compensation Program Trust Fund (20-8175-0-7-551);".

(2) Section 255(g)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(A) Strike "The following budget" and insert "The following Federal retirement and disability".

(B) In the item relating to Black lung benefits, strike "lung benefits" and insert "Lung Disability Trust Fund".

(C) In the item relating to the Court of Federal Claims Court Judges' Retirement Fund, strike "Court of Federal".

(D) In the item relating to Longshoremen's compensation benefits, insert "Special workers compensation expenses," before "Longshoremen's".

(E) In the item relating to Railroad retirement tier II, strike "retirement tier II" and insert "Industry Pension Fund".

(3) Section 255(g)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(A) Strike the following items:

"Agency for International Development, Housing, and other credit guarantee programs (72-4340-0-3-151);

"Agricultural credit insurance fund (12-4140-0-1-351);".

(B) In the item relating to Check forgery, strike "Check" and insert "United States Treasury check".

(C) Strike "Community development grant loan guarantees (86-0162-0-1-451);".

(D) After the item relating to the United States Treasury Check forgery insurance fund, insert the following new item:

"Credit liquidating accounts;".

(E) Strike the following items:

"Credit union share insurance fund (25-4468-0-3-371);

"Economic development revolving fund (13-4406-0-3);

"Export-Import Bank of the United States, Limitation of program activity (83-4027-0-1-155);

"Federal deposit Insurance Corporation (51-8419-0-8-371);

"Federal Housing Administration fund (86-4070-0-3-371);

"Federal ship financing fund (69-4301-0-3-403);

"Federal ship financing fund, fishing vessels (13-4417-0-3-376);

"Government National Mortgage Association, Guarantees of mortgage-backed securities (86-4238-0-3-371);

"Health education loans (75-4307-0-3-553);

"Indian loan guarantee and insurance fund (14-4410-0-3-452);

"Railroad rehabilitation and improvement financing fund (69-4411-0-3-401);

"Rural development insurance fund (12-4155-0-3-452);

"Rural electric and telephone revolving fund (12-4230-8-3-271);

"Rural housing insurance fund (12-4141-0-3-371);

"Small Business Administration, Business loan and investment fund (73-4154-0-3-376);

"Small Business Administration, Lease guarantees revolving fund (73-4157-0-3-376);

"Small Business Administration, Pollution control equipment contract guarantee revolving fund (73-4147-0-3-376);

"Small Business Administration, Surety bond guarantees revolving fund (73-4156-0-3-376);

"Department of Veterans Affairs Loan guaranty revolving fund (36-4025-0-3-704);".

(d) LOW-INCOME PROGRAMS.—Section 255(h) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) Amend the item relating to Child nutrition to read as follows:

"State child nutrition programs (with the exception of special milk programs) (12-3539-0-1-605);".

(2) Amend the item relating to the Women, infants, and children program to read as follows:

"Special supplemental nutrition program for women, infants, and children (WIC) (12-3510-0-1-605).".

(e) IDENTIFICATION OF PROGRAMS.—Section 255(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(i) IDENTIFICATION OF PROGRAMS.—For purposes of subsections (b), (g), and (h), each account is identified by the designated budget account identification code number set forth in the Budget of the United States Government 1996-Appendix, and an activity within an account is designated by the name of the activity and the identification code number of the account.".

(f) OPTIONAL EXEMPTION OF MILITARY PERSONNEL.—Section 255(h) of the Balanced Budget and Emergency Deficit Control Act

of 1985 (relating to optional exemption of military personnel) is repealed.

SEC. 11208. GENERAL AND SPECIAL SEQUESTRATION RULES.

(a) SECTION HEADING.—(1) The section heading of section 256 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "**exceptions, limitations, and special rules**" and inserting "**general and special sequestration rules**".

(2) The item relating to section 256 in the table contents set forth in section 250(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"Sec. 256. General and special sequestration rules.".

(b) AUTOMATIC SPENDING INCREASES.—Section 256(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(c) GUARANTEED AND DIRECT STUDENT LOAN PROGRAMS.—Section 256(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(b) STUDENT LOANS.—(1) For all student loans under part B or D of title IV of the Higher Education Act of 1965 made during the period when a sequestration order under section 254 is in effect, origination fees under sections 438(c)(2) and 455(c) of that Act shall be increased by a uniform percentage sufficient to produce the dollar savings in student loan programs (as a result of that sequestration order) required by section 252 or 253, as applicable.

"(2) For any loan made during the period beginning on the date that an order issued under section 254 takes effect with respect to a fiscal year and ending at the close of such fiscal year, the origination fees which are authorized to be collected pursuant to sections 438(c)(2) and 455(c) of such Act shall be increased by 0.50 percent.".

(d) HEALTH CENTERS.—Section 256(e)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking the dash and all that follows thereafter and inserting "2 percent.".

(e) FEDERAL PAY.—Section 256(g)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting "(including any amount payable under section 5303 or 5304 of title 5, United States Code)" after "such statutory pay system".

(f) TREATMENT OF FEDERAL ADMINISTRATIVE EXPENSES.—Section 256(h)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking subparagraphs (D) and (H), by redesignating subparagraphs (E), (F), (G), and (I), as subparagraphs (D), (E), (F), and (G), respectively, and by adding at the end the following new subparagraph:

"(H) Farm Credit Administration.".

(g) COMMODITY CREDIT CORPORATION.—Section 256(j)(5) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(5) DAIRY PROGRAM.—Notwithstanding other provisions of this subsection, as the sole means of achieving any reduction in outlays under the milk price support program, the Secretary of Agriculture shall provide for a reduction to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use. That price reduction (measured in cents per hundred weight of milk marketed) shall occur under section 201(d)(2)(A) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(2)(A)), shall begin on the day any sequestration order is issued under section 254, and shall not exceed the aggregate amount of the reduction in outlays under the milk price support program that otherwise would have been achieved by reducing payments for the purchase of milk or the products of milk under this subsection during the applicable fiscal year.".

(h) EFFECTS OF SEQUESTRATION.—Section 256(k) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) In paragraph (1), strike "other than a trust or special fund account" and insert ", except as provided in paragraph (5)" before the period.

(2) Strike paragraph (4), redesignate paragraphs (5) and (6) as paragraphs (4) and (5), respectively, and amend paragraph (5) (as redesignated) to read as follows:

"(5) Budgetary resources sequestered in revolving, trust, and special fund accounts, and offsetting collections sequestered in appropriation accounts shall not be available for obligation during the fiscal year in which the sequestration occurs, but shall be available in subsequent years to the extent otherwise provided in law.".

SEC. 11209. THE BASELINE.

Section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subsection (b)(2) by amending subparagraph (A) to read as follows:

"(A)(i) Except as provided in clause (ii), no program with estimated current year outlays greater than $50,000,000 shall be assumed to expire in the budget year or the outyears.

"(ii) Clause (i) shall not apply to a program if legislation establishing or modifying that program contains a provision stating 'Section 257(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 shall not apply to the program specified in of this Act.', the blank space being filled in with the appropriate section or sections of that legislation.

"(iii) No bill, resolution, amendment, motion, or conference report shall be subject to a point of order under section 306 of the Congressional Budget Act of 1974 solely because it includes the provision specified in clause (ii).

"(iv) Upon the expiration of the suspensions contained in section 171 of Public Law 104–193 with regard to a program in such Act with estimated fiscal year outlays greater than $50,000,000, that program shall be assumed to operate under that Act as in effect immediately before reversion to the laws suspended by such Act."

(2) by adding the end of subsection (b)(2) the following new subparagraph:

"(D) If any law expires before the budget year or any outyear, then any program with estimated current year outlays greater than $50 million which operates under that law shall be assumed to continue to operate under that law as in effect immediately before its expiration.";

(3) in the second sentence of subsection (c)(5), by striking "national product fixed-weight price index" and inserting "domestic product chain-type price index"; and

(4) by striking subsection (e) and inserting the following:

"(e) ASSET SALES.—Amounts realized from the sale of an asset other than a loan asset shall not be counted against legislation if that sale would result in a financial cost to the Federal Government.".

SEC. 11210. TECHNICAL CORRECTION.

Section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985, entitled "Modification of Presidential Order", is repealed.

SEC. 11211. JUDICIAL REVIEW.

Section 274 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) Strike "252" or "252(b)" each place it occurs and insert "254".

(2) In subsection (d)(1)(A), strike "257(1) to the extent that" and insert "256(a) if", strike the parenthetical phrase, and at the end insert "or".

(3) In subsection (d)(1)(B), strike "new budget" and all that follows through "spending authority" and insert "budgetary resources" and strike "or" after the comma.

(4) Strike subsection (d)(1)(C).

(5) Strike subsection (f) and redesignate subsections (g) and (h) as subsections (f) and (g), respectively.

(6) In subsection (g) (as redesignated), strike "base levels of total revenues and total budget outlays, as" and insert "figures", and "251(a)(2)(B) or (c)(2)," and insert "254".

SEC. 11212. EFFECTIVE DATE.

(a) EXPIRATION.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking "Part C of this title, section" and inserting "Sections 251, 253, 258B, and";

(2) by striking "1995" and inserting "2002"; and

(3) by adding at the end the following new sentence: "The remaining sections of part C of this title shall expire September 30, 2006.".

(b) EXPIRATION.—Section 14002(c)(3) of the Omnibus Budget Reconciliation Act of 1993 (2 U.S.C. 900 note) is repealed.

SEC. 11213. REDUCTION OF PREEXISTING BALANCES AND EXCLUSION OF EFFECTS OF THIS ACT FROM PAYGO SCORECARD.

Upon the enactment of this Act, the Director of the Office of Management and Budget shall—

(1) reduce any balances of direct spending and receipts legislation for any fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 to zero; and

(2) not make any estimates of changes in direct spending outlays and receipts under subsection (d) of such section 252 for any fiscal year resulting from the enactment of this Act or the Revenue Reconciliation Act of 1997.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. KASICH] and the gentleman from South Carolina [Mr. SPRATT] each will be recognized for 90 minutes.

The Chair recognizes the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Speaker, I yield myself as much time as I may consume, and hopefully it will be short.

Let me just open the debate my making it very clear what we are about to do here today.

For those people who have watched the efforts to balance the budget over the course of the last 10 to 12 years, and I want to direct my remarks to a degree to my friend from Indiana, there has been great skepticism about any plan to balance the budget because what is involved is saying we will make the savings later in exchange for some increases or some tax increases today, and we will get around to it later.

What we are about to do today is to enact in permanent law the changes

that are necessary in the entitlement programs that will accumulate the savings that will allow us to balance the budget over the course of the next 5 years, and so what I want everyone in this Chamber to understand is, as we enact the changes in permanent law, for example, that affect Medicare, we will accumulate savings as long as those changes in the law remain intact. In order for us to lose those savings, we would have to change the law again. We are not going to do that. We are not only going to do this in regard to Medicare in an effort to save Medicare and extend the life of Medicare for 10 years, but we are doing it in all the entitlement programs.

So what we are about today is to enact into permanent law those changes that will result in the savings of billions upon billions of dollars; over the course of the next 10 years, approximately a savings of $700 billion in mandatory savings, the largest in history.

At the same time, in this bill we are putting in place spending caps for the operations of Government. These spending caps mean that, if we spend more than what we have budgeted for, then we have the Sword of Damocles come down, and it just cuts all spending above those caps. Those caps are enforceable. Real savings will result from limiting the growth of the programs which operate the Government to a growth of about half a percent as compared to 6 percent over the last 10 years.

So what we are about doing today is to pass the first real bill that will enact the permanent changes into law that will result in a balanced budget by 2002. It is not a wish, a prayer, a hope, a dream; it is reality.

Mr. ROEMER. Mr. Speaker, will the gentleman yield?

Mr. KASICH. I yield to the gentleman from the Hoosier State.

Mr. ROEMER. Mr. Speaker, I appreciate the gentleman directing his events across the aisle in a bipartisan way because I intend to vote for this reconciliation package.

I would say that it is not only important to work in a bipartisan way to balance the budget, but this is a defining vote for the Democratic Party. It is a vote that, while working with our Democratic President and the majority Republican Party who control the House and the Senate, we have been able to save over $700 billion that we will not have to borrow over the next 10 years, and at the same time that many of us Democrats believe in balancing the budget, we believe in doing it in a fair, equitable and just manner.

Spending money on a brand-new initiative for children's health, $16 billion over 5 years for uninsured children; that would not have happened without our input into this process.

The largest Pell grant increase in the history of the Pell grant program to help our struggling families get their children a college education; that would not have happened without the President and the Democratic minorities in the Senate and the House working with the Republican majority.

There are lots of things that we believe very firmly will benefit the hard-working people of this country in this balanced budget proposal that we hope will receive a number of Democratic votes here on the floor, and I appreciate the hard work. And next door in the Buckeye State, with the gentleman from Ohio [Mr. KASICH], we oftentimes work together on some of the budgetary matters, and I am very anxious to work with the President and with the Senate, the other body, and improve this bill even further in conference.

Mr. KASICH. Mr. Speaker, I reclaim my time and suggest that I think what everyone should be very happy about today is that what we are about to do here again, so that there can be no confusion with our colleagues or the people who advise our colleagues, we are about enacting the real savings that will accumulate to balance the budget. It is not based on some targets, it is not based on some jerry-rigged mechanism. It is based on controlling the growth of entitlement programs in a variety of areas, and I want to commend the gentleman for being here and supporting this effort today.

Let me also spend a few minutes talking about the Medicare portion of this. We have not only enacted the savings that will preserve Medicare for 10 years, but at the same time we have also been able to offer a program that will give our senior citizens more choice on health care.

Furthermore, it will permit physicians to group together to compete against insurance companies. We think that allowing physicians to be able to group together to compete against insurance companies will result in consumers having a leg up on the current process. I am delighted it happened.

Furthermore, included in this is something that is controversial, but I want to commend the minority for not doing somersaults over this; it is the program to allow our senior citizens to have more choice by being able to purchase medical savings accounts in this product.

In addition to that, we have also got some control in the area of the home health care and skilled nursing facilities, which have been the most rapidly growing portion of Medicare. We are now going to have an item called prospective payments where we do not just turn the faucet on and let all the dollars run out. We want to hold people accountable who deliver these services.

So we have a variety of things in this program that, in fact, will empower seniors, give them more choices, we believe improve the quality of care, and at the same time save $115 billion over the next 5 years which is very similar to what we had proposed 2 years ago.

So I think this is just a terrific accomplishment. In the area of Medicaid we have released the States from a number of provisions designed by the Federal Government to tell States how to regulate the Medicaid program. We have decided that there are some reasonable provisions where the Governors of our country ought to be given flexibility to manage their program better so that they can provide more care to those who are in need of it without micromanaging the program from Washington. We think it is terrific.

And we did make a few reforms in welfare where we took a look at what we did last year, and we said if there are some areas where perhaps we could improve the bill, make it more compassionate, we agreed to do it. But we did not walk away from the basic commitment that we made to the American people to end the entitlement program, to make sure that able-bodied people go to work and to make sure that this program will be run at the State level.

Now I want to just suggest today that the ability to enact these programs is really a huge step forward in beginning to address the problem of what can be generational warfare in this country. We are by no means at an end. No one who watches this debate should think that everything is now copasetic. It is not.

We are, in fact, going to have to come back and give people more power, more flexibility, more control of the resources that they earn in their lifetime to invest in their own retirement, in a retirement program called Social Security where hopefully we can preserve that program and yet let people have more flexibility to earn more money based on their earnings. We know that there has to be a major overhaul of the Social Security program that will preserve, protect and enhance Social Security. We are going to have to work on a bipartisan basis in order to guarantee that our children are not consigned to spending all of their life working to pay our benefits. I think we can achieve it, and we are going to have to do it together because Social Security is as American as the flag and apple pie, and we are going to stand behind it, but we are going to have to improve it, and we are going to have to innovate it.

In the area of Medicare it is very clear that we are going to have to move toward a greater voucher system where senior citizens are going to hold a check and the health care providers in this country are going to have to compete for the right to provide quality care to our senior citizens.

□ 1345

It is one of the answers that I believe will help us be able to deal with the

tremendous influx into the retirement programs of our baby boomers, and in the area of Medicaid, a lot more reform needs to be done in Medicaid. Frankly, we have to wonder why we do not create a system where the baby boomers begin to provide for their own long-term care.

The gentlewoman from Connecticut is intimately involved in trying to create a program to really move Medicaid to be a program for the disabled and the children, and that we need to encourage the baby boomers in this country to buy long-term care insurance so that we do not become a burden on our children.

The fact is, we cannot afford a generational war in this country. What we have done is to take the first step to show the country that we can, in a responsible way, begin to get a handle on entitlement programs, balance the budget, transfer power from this city into the hands of individuals who are the recipients of these programs, bringing greater innovation, bringing greater imagination to the effectiveness of these programs by transferring them out of a Washington model and putting them into the hands of people across the country.

I think that if we can be successful here, we will gain some of the confidence of the American people that all of us know we must take to deal with the problems of the next generation; we will gain confidence and credibility from the public when we take that next difficult, but clearly exciting step to preserve many of these programs for the American people.

So today we have so many things that we can be proud of, so many things that we can be excited about. But this is that step that will provide for a balanced budget in the year 2002 in a real way.

Mr. Speaker, I reserve the balance of my time.

Mr. SPRATT. Mr. Speaker, I ask unanimous consent to yield 45 minutes to the gentlewoman from Connecticut [Ms. DELAURO], and that she be allowed to control and yield that time.

The SPEAKER pro tempore (Mr. DREIER). Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. SPRATT. Mr. Speaker, I yield myself such time as I may consume.

I cannot pass up the opportunity to observe, as I have before, why it is we are here at this moment. Five years ago, the date I always pick as January 13, 1993, just before George Bush left office, his Economic Report of the President came to the Congress and it indicated, projected, that the deficit for that year, fiscal year 1993, would be $332 billion. Within a few months, we passed in the House and in the Senate and sent to the President a deficit reduction plan, only with Democratic votes, passed by the skin of its teeth, which sought to cut that deficit in half over the next 5 fiscal years. The results are a matter of record.

The deficit fell in fiscal year 1993 to $255 billion, in fiscal 1994 to $203 billion, in fiscal year 1995 to $164 billion, and last year, September 30, 1996, the deficit was $107.8 billion. Both OMB and CBO projected that the deficit will be well below $75 billion on September 30, 1997, when we close the books on this fiscal year.

So we can credibly say that we are within reach of a balanced budget because of what we did at some political expense in 1993. This could be for many of us, a sweet occasion, a very satisfying moment. Instead, it is a little bittersweet.

Mr. Speaker, less than a month ago, we passed a budget agreement here in the House, sent it to the other body and they passed it as well, that deserved the name bipartisan. Mr. Speaker, 132 Democrats voted for that agreement, and today, 132 or more would come back to the well of the House and vote for it again if the budget agreement we made a few weeks ago were simply carried out, straightforwardly implemented in the bill that is before us.

Unfortunately, it is not. This bill does not fully realize the goals that we set out in the balanced budget agreement. It is still a work in process, very much something that is yet to be realized. That is why the administration requested us in a letter they sent today to pass a bill to move the process, not that they are endorsing this bill, but they endorse the process, because their expectation is that it can be perfected in conference, which remains to be seen.

Here are just a few of the ways that we have fallen short. The philosophy of our negotiation was that each side, Democrats and Republicans, would come out of the negotiation with something that each of us could claim we had won, some distinct victory. For our part we chose as a victory education, the President's request for education, and an initiative in the area of children's health care, another step toward providing health care for the millions of Americans who do not have it.

The goal we set for ourselves was to get at least 5 million children of the 10.5 million children in working poor families who do not have coverage covered with health insurance. We set aside an earmark $16 billion of new spending resources in this bill in order to accomplish that.

Unfortunately, the committee of jurisdiction in its mark of this bill gave us a block grant that provides us no assurance that this $16 billion will reach the children for whom it was intended. CBO has cast grave doubt as to whether we will even get a fraction of those children. So we have fallen short of a goal that we all ostensibly shared and should share, and that is, get at least half of that 10 million children covered. That is why I say this bill needs improvement.

Next, provisions were added to the bill that were never contemplated, never discussed in the course of the budget negotiations. In dealing with welfare to work and with workfare participants, provisions were added that would deny workfare participants the protections of the Federal Labor Standards Act, deny them the right to be called employees and all the rights, benefits and privileges pertinent thereto under Federal law.

In dealing with the food stamp provision which now requires able-bodied food stamp beneficiaries between the ages of 18 and 50 to work in order to get their food stamps, we have provided $1 billion in order to see to it that 350,000 workfare slots would be available so that these food stamp participants, if they could not find a job, could at least get workfare and continue to get their food stamps. We have not realized that goal in the bill before us.

Then in this bill, which is a must-pass piece of legislation, everybody knows it is a moving vehicle and it is going on a fast track, some bitter pills were added by people who are ardent proponents of various projects that have nothing to do with reconciliation. This bill contains a new medical malpractice code, a far-reaching innovation for the Federal Government. I voted for that before. I have actually written the title, the Rowland-Bilirakis bill that dealt with it, but there are many Members on my side for whom this is a bitter pill to swallow. The same goes for the Hyde amendment, which I voted for before, but many Members on my side simply think it has made the kids' care bill something that they cannot support until it is removed.

Go down the list; 500,000 MSA's, medical savings accounts, never discussed in our agreement, never contemplated, and scored by the Congressional Budget Office not to save money in a bill where we are trying to shore up and restore solvency to Medicare or shore up and eradicate the deficit; this will cost the Medicare Program $2 billion over the next 5 years, an expensive experiment.

So all of this is hard to swallow for Democrats. Some Democrats today, as a consequence, who could be counted on to come to the floor as they did in 1993, as they did just a few weeks ago, and vote to eradicate the deficit and balance the budget will be forced to vote no today. It is not because they do not want to balance the budget, it is because they think the deal that they supported just a few weeks ago has not been upheld and has been actually breached.

Some, like me, will vote for the budget reconciliation bill before us. I

vote for it for two strong and substantial reasons. First of all, as the bill began to emerge from the pipeline of the different authorizing committees, and we began to note its problems that had to be corrected and cleaned up, the gentleman from Ohio [Mr. KASICH] worked in earnest and in good faith with me to work off a list of things that I thought we could correct here in the House between the reporting of the budget resolution and the rule that was considered today. Much of that was accomplished in the self-implementing, self-executing rule that we passed just a few minutes ago.

In that same spirit of good faith, I am betting that that same cooperation will continue into conference so that we can, through one means or another, negotiations with the Senate, the President's veto threat, whatever the device may be, we can take this work in progress and bring it back to what it was just a few weeks ago, a bill that we could call a balanced bill to balance the budget, a bill that is truly bipartisan, one that we can all vote for.

It is in the hope that we can obtain that objective that I will support this bill, but I say to all Members of the House, Democrats and Republicans alike, it is still very much a work in progress and it needs and requires a lot of work before final passage.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. Without objection, the gentleman from Connecticut [Mr. SHAYS] will control the time of the gentleman from Ohio [Mr. KASICH].

There was no objection.

Mr. SHAYS. Mr. Speaker, I yield 4 minutes to the gentlewoman from Texas [Ms. GRANGER].

Ms. GRANGER. Mr. Speaker, I rise in strong support of the first balanced budget since 1969, the year that Neil Armstrong walked on the moon. Neil Armstrong's giant leap for mankind is the second thing I remember about 1969. Mr. Speaker, 1969, the last year the budget was balanced, was also the year my first child was born. I proudly watched that young man walk down the aisle to receive his doctor of jurisprudence just 3 weeks ago. That means my oldest son has not seen a balanced budget since the year he was born. My twins, born 2 years later, have never seen a balanced budget in their lifetimes.

Today we can change that. The legislation we consider today will balance the budget by 2002, if not sooner. Our plan will put the Federal budget into surplus through the year 2007. This is the most important thing we can do for our children's future.

But this plan does much more. In addition to helping our children, this balanced budget downsizes Washington to return power, money, and decisions back to families, neighborhoods, and communities. As the mayor of Fort Worth, TX, I learned that local communities need more power and less mandates from Washington. The balanced budget we will continue today will reduce Washington spending as a percentage of our economy to the lowest level since 1974.

This plan keeps our commitment to our parents and grandparents by preserving Medicare. This balanced budget adds 10 years to the life of Medicare; it provides our parents with more health care choices, the same health care choices as their children and grandchildren.

This plan keeps our commitment to education. I taught school for 9 years as a public school teacher, and I learned that there is nothing more important than education. By eliminating the deficit, a balanced budget will lower the cost of a typical student loan by nearly $9,000. College education will be more affordable to young men and women across this country.

This budget agreement keeps our commitment to future generations by balancing the budget; to our parents and grandparents by preserving Medicare; and to America's future by making education for our children more affordable and available. Let us stand up for America's children, its seniors and its students and its future and support this balanced budget agreement.

Ms. DELAURO. Mr. Speaker, I yield 16 minutes to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Speaker, I thank my distinguished colleague from Connecticut for yielding me this time.

Mr. Speaker, this budget bill that we have on the floor breaks the deal, and it does so not in one or two places, it does so in about 12 different areas, major areas of law.

□ 1400

What it also does, this bill and the tax bill we will consider tomorrow that the Republicans are rushing through this Congress will spawn the worst economic inequality that Americans have experienced in the past century. We are experiencing in this country today a situation in which those at the top are moving further and further away from the rest of the country.

We can see it. We used to be first in wages and benefits. Now we are 13th among Western developing countries. Eighty percent of the American people have not had a raise in wages since 1979. The top 20 percent are doing very well. The difference between the CEO in 1960 and the average worker was about 12 times difference in salaries. Today it is 209 times. They make 209 times more than the average worker. Now we are codifying all of that into law today and tomorrow.

The Republican tax bill we are going to deal with tomorrow gives more benefits to the richest 1 percent of Americans than to the bottom 60 percent combined. The top 1 percent get more than the 60 percent. Rollbacks in the corporate minimum tax is a $232 billion giveaway. Look at the chart here. Back in the early 1960's the corporations paid roughly close to 25 percent of the taxes in this country. It got down to about 7 percent in 1982.

It was so embarrassing to the Republicans and the rest of the country, because companies like Texaco and AT&T and Boeing were not paying any Federal taxes, so we put together a corporate minimum tax. It started to go up just a little bit since then.

This bill sends us this back down by giving them a $22 billion break; when we add all of the breaks on capital gains through inflation, $650 billion costs over the period of outyears.

Another point I would like to make is that the Republican tax bill actually raises taxes on the bottom 40 percent of Americans. It gives all these breaks to the people at the top, raises taxes on the bottom 40 percent. If the Republicans were not writing this into law, I would call it robbery.

The second point, the tax and spending bills give giant corporations the power to create second-class citizens who do not have the same rights as the rest of us. I ask the Members, is it fair to deny some Americans their rights under the Family and Medical Leave Act that we all worked so hard for here, the Equal Pay Act, the Civil Rights Protection Act, OSHA safety standards?

Is it right to deny a person the ability to defend themselves against sexual harassment? Is it fair to pay workers on a contract basis, denying them the minimum wage, health benefits, pension benefits? This country was founded on the basic principle that we are created equal, but these bills today and tomorrow say that some people, mostly families struggling to raise their children, are less than equal, that they do not deserve the same rights as other Americans. That is not just a slippery slope, that is a jagged cliff. If all Americans do not share the same rights, then none of us have them.

The third point, the Republican tax and spending bills violate the bipartisan budget agreement. Three of the most important violations are that it reneges on a third of the promised funding for education, shortchanging particularly students from working families. It also reneges on health care coverage for 90 percent of the children who will be covered under the original agreement, and gives this funding to States with no guarantee that they are going to spend it on kids for their health insurance.

The agreement called for covering 5 million children, but the spending bill covers only about 500,000, and leaves out 4.5 million children. It also effectively slashes funding for children's

hospitals serving children from poor and working class families perhaps causing some of these vital hospitals to shut down.

These bills punish working families and reward the wealthiest and big nationals. More benefits to the richest 1 percent, and 60 percent of the rest of the folks, from zero to 60 percent, those benefits equal the top 1 percent. Is that just? Is that fair? We believe in a balanced budget, tax cuts for working families, and fairness. We will fight for that.

Tomorrow, with our tax bill that targets ours to working families, not the very wealthy in this country, we will fight that, and we will fight that today when we take on what the Republicans have proposed here with respect to what we believe is breaking the agreement.

Ms. DELAURO. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentlewoman from Connecticut.

Ms. DELAURO. Mr. Speaker, I thank the gentleman from Michigan for yielding to me, and want to pick up a couple of points he has laid out here.

I urge my colleagues to vote against this bill, because in fact it does violate the bipartisan budget we passed earlier this month. In particular one of the areas where it is an outrage is what they have done in the whole issue of health care for children in this country. It denies working families the help they need to provide health care for their children. They have violated that very basic tenet of this agreement. There is no assurance of coverage for at least half of the 10 million children in the Nation today who do not have access to health insurance.

Children living without health care coverage are hurt in so many ways in this country. They are less likely to have a family doctor, to receive preventive care, and they are less likely to have treatment for serious illnesses. They are less likely to grow up healthy and productive. The problem is not going away because every day in this country another 3,300 kids lose their health insurance.

Mr. BONIOR. That bears repeating; every day in this country 3,300 kids in this country lose health insurance because employers are cutting back these benefits. Where are the kids going to go? This plan does nothing, nothing for them.

Ms. DELAURO. I might just add, Mr. Speaker, that the agreement clearly states $16 billion would be spent to cover half the kids. It has been estimated by the Congressional Budget Office that the bill would cover only 520,000 of those 10 million kids. That is coverage of less than 20 percent of the children who do not have access to health care today.

I might add that the children who do not have access to health care today are the sons and the daughters of working families. These are people whose fathers and mothers are working every single day in order to protect their kids, and they are without health insurance.

This bill offers no assurance that even one additional child will receive health care insurance. But what my Republican colleagues have done is instead they are going to send this money to the States with no requirement at all that the funds be used to give kids the health care that they need. There is nothing that says that this money needs to be used to pay for health insurance for kids today.

The Republicans in fact are turning their back on working middle class families today. They are going to not allow our youngsters to grow up healthy and strong.

Mr. DOGGETT. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. DOGGETT. Mr. Speaker, I voted for this balanced budget agreement.

Mr. BONIOR. I did, too. So did the gentlewoman from Connecticut [Ms. DELAURO].

Mr. DOGGETT. Really, is not the measure what one would properly call a wreckonciliation bill, in that it wrecks the balanced budget agreement?

Mr. BONIOR. I agree 100 percent, in that it wrecks it on a number of fronts, some of which we have just talked about.

Mr. DOGGETT. Indeed, when we talked about getting a balanced budget agreement that has true balance, I always thought the idea was that there would be shared sacrifice, shared burden, but it would appear that those at the top of the economic ladder now get to share, and those that are trying to climb up, they just get the burden. Does it appear that way to the gentleman?

Mr. BONIOR. Mr. Speaker, I think the gentleman is absolutely correct. We can tell from this graph on the tax piece that the multinational corporations and giant corporations get a $22 billion break. We are talking about, as I said earlier, the top 1 percent getting as much in benefits as 60 percent of the American people, working Americans in this country. Where is the justice? Where is the fairness there?

Mr. DOGGETT. If there is a family out there, maybe both parents having to try to work just to make ends meet and at the same time trying to create a good family environment for their kids. If they work for someone that does not provide health insurance, this bill, this wreckonciliation bill, says to them, you have to go forward with no health insurance, but it says to a giant multinational corporation, can we cut your taxes a little bit more?

Mr. BONIOR. Mr. Speaker, the gentleman is right, he has got it. That is exactly where we are headed on this bill here. It is reneging on the promise that was made over the agreement. It is inequitable, it is unfair, and puts the burden on those who can least afford to bear it.

Mr. DOGGETT. Indeed, for the ordinary young working families, does this reconciliation bill really offer them much of anything?

Mr. BONIOR. It offers them virtually nothing.

In terms of the budget, let me just tell my Republican colleagues and those Members on the floor here, it was in 1993, if we are talking about offering people a balanced budget, it was Democrats on every single one of the votes that passed that bill that reduced the deficit from $300 billion.

It was in 1993 that we passed the balanced budget in this country. The budget was at about $300 billion. That bill, that was supported by Democrats only, not a Republican in the House and Senate supported that bill, brought the deficit down from an annual $300 billion deficit all the way down to roughly $60 billion this year.

What we are trying to do is maintain that, maintain that progress, and make it equitable in terms of working Americans. This bill does not do it. It moves us back in the opposite direction, with huge outyears, deficits in the outyears, because of what we will see tomorrow in the Republican bill on taxes by indexing capital gains. It does not distribute the benefits fairly in this particular bill, as we have discussed with children's health care, as we have discussed with a variety of other issues in terms of the workplace.

Mr. DEFAZIO. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Speaker, the gentleman just made the most salient point there. The cuts today are designed to cut taxes for the largest corporations in America and the wealthiest. Some of these cuts are extraordinarily cruel. They cannot be denied by my friends who will stand on the other side of the aisle: a 20-percent cut in home health oxygen benefits for seniors, and a freeze to the year 2002.

Let me just read from one constituent, of the many letters I got: Dixie McNutt, Springfield, OR, my hometown. Dixie says, "Having oxygen allows people like me to enjoy the comforts of home and to feel as though we are still an active part of the family. Without this benefit, the choice seems to be living at home without breathing, or spending our remaining days in the hospital, which would cost both Medicare and the patient much more."

So today, Congress will cut $2 billion out of home health oxygen benefits for seniors and the disabled to pay for one-tenth of the repeal and the gutting of

the alternative minimum tax for corporations, because it will be too much, too much to ask the largest corporations in America to just pay maybe 5 or 10 percent of their profits in taxes, a fraction of what working Americans pay out of their paycheck every month. This is a travesty. It should not pass. I stand against this bill.

Mr. BONIOR. I thank my colleague.

Mr. Speaker, what we have here is a replay, really, of the last Congress. They are taking dollars out of children's hospitals, they are taking dollars that were intended for children's health insurance benefits, they are taking benefits away from workers all over this country, and where are they putting it? They are putting it into taking care of the biggest corporations in this country and the wealthiest individuals in this country. It is indeed one of the biggest transfers of wealth we will see here in many a moon.

Mr. KENNEDY of Rhode Island. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Rhode Island.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I think what this reconciliation bill really does is it shows where the majority party, the Republican party's, true priorities are. Clearly, their priorities are not with our Nation's senior citizens, who are now going to get the cold shoulder because of the MSA accounts that are provided for in this bill, which basically allows the skimming to be done by insurance companies, so they can get the healthiest and wealthiest who do not have to pay the deductible, and be able to target those very healthy and wealthy people, leaving the poorest elderly, the most frail elderly, the ones that have the most costs to bear with respect to that.

In addition to that, the bill also, as the gentleman said, makes sure that we do not provide the needed investment for health insurance for children, making sure that all the children in this country get the necessary health care that they need.

Finally, as the gentleman mentioned, all this does is shift the burden of our taxes from the top 1 percent of this country to the bottom 60 percent. I think the gentleman pointed out correctly that, is it not correct that the tax cut that this reconciliation bill provides for, including the tax bill, has a tax cut larger for the top 1 percent than for the aggregate of the bottom 60 percent?

Mr. BONIOR. The gentleman has stated it correctly. The top 1 percent gets as much as the bottom 60 percent in this country.

Mr. KENNEDY of Rhode Island. While the senior citizens do not get the necessary health insurance, as my colleague, the gentleman from Oregon, just mentioned; while children do not get the necessary health insurance they need, and while legal immigrants still go without SSI, based upon the Republican discriminatory bill with respect to our legal immigrants not being provided adequate SSI coverage.

Mr. SANDERS. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Speaker, let us put this bill into the context of what is happening in America today. Everybody knows what is happening. The richest people are becoming richer, the middle class is being squeezed, and most of the new jobs being created are low-wage jobs.

Given that context, what sense is it that we have legislation under which 58 percent of the benefits go to the top 5 percent, corporations see a reduction in their tax burden, while the bottom 40 percent of income earners see no benefits at all? In other words, we have got this thing completely backwards. We are helping those people who do not need help, and we are not helping those people who are in desperate need of help. Furthermore, under this legislation, Medicare will be cut $115 billion over a 5-year period.

The Vermont Association of Hospitals estimates that will be a $75 million cut from hospitals, rural hospitals all over America who will be hurt, meaning there will be lower quality health care for our senior citizens.

□ 1415

Tax breaks for the rich and the people who do not need it, cuts in Medicare and a reduction in the quality of health care for our senior citizens, those people who do need help, I urge a "no" vote on this absurd piece of legislation.

Mr. SHAYS. Mr. Speaker, I yield myself 1 minute, to say that tomorrow we will be debating the tax bill. As the bipartisan joint tax committee of Congress estimates, 76 percent of all the benefit goes to people who make less than $75,000, totally contrary to the facts that have been shouted out in the last 20 minutes. Ninety-two percent of the benefits go to people making under $100,000.

We will be debating the tax bill tomorrow. It will be very, very clear who benefits. We will realize the people who benefit are the middle class in this country. Today we are debating a spending bill, a spending bill that allows spending to go up 3 percent a year, that allows Medicare to go up at 7 percent a year each year, not a cut, a significant increase.

Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding me the time.

It is not necessary to stand here and yell when we have the facts with us. We definitely have the facts with us.

That is that 76 percent of the tax cuts that we are going to be talking about tomorrow, tax relief for American families, goes to families earning less than $70,000.

Now, people listening to this debate would wonder, where in the world are these figures coming from that are being screamed and yelled on the floor and all of these graphs and all of this yelling and signs that are going up? I can tell my colleagues where they came from. Treasury came up with an archaic formula in which they determine somebody's wealth by taking the rental value of the home that they own and add it to their income, the earnings of corporations in which they might own a few shares of stocks and putting that upon them, the economic value of their resources such as their automobile. Come on.

Unless the Democrats are going to come out and try to tax that, then this is an absolutely absurd argument. So let us get some truth here on the floor. Let us get to the situation where we are not yelling at each other, that we are simply talking facts. If we are putting that type of income on top of somebody when we start to try to come up with all these figures that simply are not true, I think that at that time we owe it to the American people, we certainly owe it to our colleagues to get up and say how did we determine that income. We do it by simple math and by the amount of earnings that people have. The facts are very clear.

This is the first tax relief the American people are getting in the last 16 years. There are some Members that are here on the floor debating that just cannot stand that idea. But I can tell my colleagues, Democrats and Republicans alike are going to carry this day and we are going to get the first tax relief for the American families in 16 years. That will vindicate this debate.

Mr. SHAYS. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. HAYWORTH], who will point out that taxes went up in 1993 and are going down in 1997.

Mr. HAYWORTH. Mr. Speaker, I thank the gentleman from Connecticut for yielding me this time.

I am pleased to follow my chairman of the Subcommittee on Human Resources of the Committee on Ways and Means. I have been listening, Mr. Speaker, with great interest to the cavalier fashion in which fear replaces facts on the other side. It is sad to see that happen.

I do not think the point can be made often enough that when you cook the books, as the liberal minority has done, in the process you fricassee the facts.

Mr. Speaker, I do not know of anyone, including my friends on the minority side, I do not know of anyone who pays themselves rent to live in a house they own. Only in Washington, DC in the desperation of trying to concoct fear rather than new ideas, rather

than joining with us to decrease the tax burden on working Americans, decrease the size of government, have a limited and effective government, only in Washington do we see this kind of math.

To hear the minority whip come up and talk about the balanced budget taking shape in 1993, I was a private citizen. I know exactly what happened in 1993, the largest tax increase in American history. It took a new Congress cutting spending, it took a new Congress coming in and saying, let us reverse the culture of tax-and-spend to take the first fledgling steps in reducing by $50 billion the size of government to make it limited and effective.

And the truth of this tax cut, Mr. Speaker, is the following: 76 percent of the tax cuts go to benefit middle-income families, families making between $20,000 and $75,000 a year for, Mr. Speaker, we realize that those middle-income taxpayers are exactly that. They are not rich. They are working Americans. They deserve a break. They will get one.

Mr. SHAYS. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. MILLER].

Mr. MILLER of Florida. Mr. Speaker, let us get clear what we are voting on today in the Balanced Budget Act. We are talking about the spending side of the equation. Tomorrow we are going to talk about the tax side of the equation. Because tomorrow we are going to vote on massive amounts of middle-class tax relief. But today we are talking about the spending side of the equation.

What we are talking about today is reining in the fiscal irresponsibility and spending that takes place here in Washington. When I first ran in 1992, I ran because it was a moral issue to me that this Government was building up an obscene and immoral debt that we were going to pass on to our children and grandchildren. It was wrong to build up a debt that today is over $19,000 for every man, woman, and child in the United States because we just overspend in Washington. The way we go about solving that problem is reining in the Federal Government.

I was pleased to be able to serve on the Committee on the Budget with the gentleman from Ohio [Mr. KASICH] back in 1993 and 1994. As a minority back then, we introduced a budget resolution that was called cut spending first because we recognized that is where the problem is. It is not that we tax too little in this country. It is because we spend too much. And what this bill is today is $700 billion of entitlement savings over the next 10 years. It needs to be done in a bipartisan fashion.

That is the reason I congratulate the gentleman from South Carolina [Mr. SPRATT] and the gentleman from Indiana [Mr. ROEMER] earlier who have always spoken in favor of this bill as a step in the direction for the final passage ultimately next month. So we have support on the other side of the aisle. It is too bad that the very liberal wing of the Democratic Party feels so adamant they need to demagogue that issue because what we are doing is the right thing for America's children and grandchildren of future generations to get the spending under control.

One of the very things I feel very positive about in this bill is Medicare. What we have is a Medicare Program that is going bankrupt. It will be bankrupt in 4 more years. We need to address this in a bipartisan fashion, which is exactly what has been done in this committee. In fact, the Committee on Ways and Means passed it with a 36 to 3 vote. Only three Democrats voted against it. The majority of Democrats voted for the Medicare position of this bill, because Medicare has to be preserved, has to be protected, has to be saved for our senior citizens.

In my district in Florida, Sarasota-Bradenton, Florida area, we have more seniors than any district in the country. So it is important to me for all the seniors in my district, I have an 87-year-old mother that is dependent on Medicare. So we need it for the seniors. But it is also a big jobs issue in my district with the hospitals and home care agencies and the doctors' offices, all needing their jobs, depending on this. So we need to preserve that program and save that program.

How do we go about doing that in this bill? What we do basically is we slow the rate of spending in Medicare. We slow the rate of spending so we are going to spend more money every year in Medicare. Right now we are spending about $5,200 per person on Medicare. In 5 years we will be spending $6,900 per person on Medicare. What we are going to do is go after waste, fraud, and abuse and we are going to give more choices to senior citizens.

It is a good program. I encourage my colleagues to support this. I hope we get strong support on the other side of the aisle.

Ms. DELAURO. Mr. Speaker, how much time remains of my time?

The SPEAKER pro tempore [Mr. DREIER]. The gentlewoman from Connecticut [Ms. DELAURO] has 29 minutes remaining, the gentleman from South Carolina [Mr. SPRATT] has 36 minutes remaining, and the gentleman from Connecticut [Mr. SHAYS] has 68 minutes remaining.

Ms. DELAURO. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Speaker, three points on taxes. I hope the Republicans will listen. The 76 percent for families less than $70,000 is based on 5 years, apparently. We have never seen the analysis. I challenge them, give us a 10-year analysis. They leave out the tax breaks the second 5 years. Give it to us.

Second, Treasury, using the same methods used by the Reagan Treasury and the Bush Treasury, say two-thirds of the tax cuts under your bill go to the wealthy, the same method that was used by previous administrations.

Third, they bust the budget in the outyears. They bust it. So come here not with phony figures. Come here with the facts and we will debate them.

Mr. SHAYS. Mr. Speaker, I yield 3 minutes to the gentleman from Kentucky [Mr. BUNNING], who is a member of both the Committee on Ways and Means and the Committee on the Budget.

Mr. BUNNING. Mr. Speaker, I would like to say to my good friend from Michigan, he knows full well that the numbers we use are adjusted gross income numbers and they are factual. And just because Ronald Reagan and George Bush's Treasury Departments made a mistake, it is no sign that the Clinton administration has to continue making the same mistakes.

Mr. Speaker, I rise in strong support of the Balanced Budget Act of 1997. I am especially proud of the Medicare reforms in this bill, about a 7-percent increase over the 5 years, each year. Since Republicans took control of Congress, we have been working very hard to preserve and strengthen and protect Medicare.

The bill before us today does save Medicare from bankruptcy for at least the next 10 years and gives us time to figure out a long-term fix for the problem. But I think the most exciting part of this package is that it gives seniors more choices in picking the health care plan that best fits their needs.

I know some of the seniors like what they have right now. They do not want to change a thing. Fine. They do not have to move off Medicare part A or part B. They can simply do what they have been doing. But if they want to change, seniors will now be able to shop around for a PPO, an HMO, a medical savings account, another health care plan that covers something that Medicare does not cover right now like prescription drugs or eye glasses. And it will be paid for by Medicare. They might even be able to choose a new policy that allows them to get rid of Medigap supplemental plans that they are paying extra for right now.

In rural States like Kentucky, where folks sometimes do not have as many health options, this bill enables doctors and hospitals and other providers to band together to set up provider service networks to give seniors even more choices. Letting seniors choose, forcing health care providers to compete for their business are the keys in this Medicare reform package. This holds down the cost and saves enough money to keep Medicare going for years.

Of course, we also save a lot of money by making other important changes like reforming the medical

malpractice rules and cracking down on waste, fraud and abuse.

□ 1430

But by empowering seniors, by giving them more choices, we take the biggest strides towards reforming and saving Medicare. By exercising the power to choose, seniors themselves will do most towards saving Medicare; they, not the Washington bureaucrats, will control their own futures.

I urge support of this bill and all the good things in it.

Ms. DELAURO. Mr. Speaker, I yield myself 10 seconds. I think it bears merit to remember that it was the Republican majority in this House that wanted to cut the Medicare Program by $270 billion to pay for a tax break, $245 billion for the richest people in this country. It was the President and the people of this country that said no.

Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, I voted for the budget agreement approved last month because I do believe that our Nation must have a balanced budget that protects our priorities and respects our values. But, unfortunately, the Republican leadership did not even wait for the ink to dry on the deal before changing it.

In fact, the bill before us violates the budget deal in several critical ways. First, it fails to provide basic assistance to legal immigrants, which means that 16,000 elderly and disabled legal immigrants in New York will have the safety net cut out from under them.

The bill cuts more than $12 billion from hospitals and other health care providers in New York, and the children's health program fails to provide coverage for more than 4 million children. It denies American workers basic workplace protections, and it will hurt seniors and their families who depend on quality nursing care.

And this bill violates the basic reproductive rights of American women. Tucked away in the fine print of this legislation is an extreme provision, the Hyde amendment, that would permanently, for the first time, prohibit the use of Federal funds for abortion. This punitive prohibition would prevent millions of lower income women from obtaining vital reproductive health services and would personally create a two-tiered health care system.

We must not allow this to occur. Federal health programs must cover the full range of reproductive health care services, including abortion. This abortion restriction was not in the budget deal, and it should not be in the budget bill. We must not allow the Republicans to use the budget process to enact their radical anti-choice agenda. Again, the abortion restriction was not in the budget deal; and, therefore, it should not be in this budget bill.

I urge a "no" vote on this legislation.

Mr. SHAYS. Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Oklahoma, [Mr. J.C. WATTS].

Mr. WATTS of Oklahoma. Mr. Speaker, I rise in support of the Balanced Budget Act of 1997. We have a historic opportunity to come together in a bipartisan fashion and deliver on our promise to the American people to have a balanced budget by the year 2002.

As we debate this today, there are going to be people on the left and right arguing and bickering about programs that they want added or taken out, but we cannot allow this to divert our attention from the big picture. This is the first balanced budget in over 30 years. And it is interesting, it is the first tax cut in 16 years; and it is even more interesting that Tiger Woods was 5 years old the last time we had a tax cut.

We always hear, and we will continue to hear today, that the rich are getting the tax breaks. Let me tell my colleagues, as it has been said: 76 percent of our tax cut goes to people making from $25,000 to $75,000 a year. Let me tell my colleagues: Somebody making $75,000 a year in America that has two kids, they are working from paycheck to paycheck, trying to meet their monthly responsibilities.

We keep hearing that we are getting tax cuts for the wealthy industries, wealthy businesses in America. Over 90 percent of the businesses in the Fourth District of Oklahoma employ six people or less. These people are raving about this budget deal because they know they are going to get some relief from the ridiculous tax policies, these repressive and aggressive tax policies that we passed over the last 25 or 30 years.

When I came to Congress, I promised the people of the Fourth District of Oklahoma I would work to make Government live within its means, just like all the working families in Oklahoma and across the Nation must do every month.

I have five kids who I am trying to teach how to be responsible, and I know they are always watching their dad to try to see if he practices what he preaches. So today, when I cast my vote for fiscal responsibility and balancing the budget, I am showing my kids that I am serious.

Balancing the budget is the right thing to do. And if every Member in this Chamber does not vote to balance the budget because it is the responsible thing to do, then do it for your children so they will not have to inherit an America as pathetic as it is today, where you have got working families paying from 48 to 52 cents of every dollar they make in some Government tax or Government fee. Do it so the 5- and 6-year-olds out there will not have to spend 80 to 84 cents of every dollar they make in some type of Government tax or Government fee by the time they are 25 years of age.

My father taught me at an early age that you cannot spend out more money than you take in, and he said this: If your outgo exceeds your income, then your uplift will come to a downfall. That is pretty good advice to remember as we debate the balanced budget here today. It is advice I must follow in teaching my kids.

Friends, I urge everyone to support this balanced budget. It helps control runaway Washington spending, saves Medicare. Only in Washington, DC could an increase be a cut. It saves Medicare. We increase Medicare spending and provide much-needed tax relief for working families.

Ms. DELAURO. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, I am not sure that there is a term in the vocabulary adequate to describe my level of disgust with this bill. The Republican majority began this process with proposals reported out of the Committee on Ways and Means and the Committee on Education and the Workforce that represented the most pernicious assault on the working poor I have witnessed as a 29-year Member of this body.

In response to the chorus of outrage that rang out against those proposals, the majority fabricated window dressing to make their proposals seem more moderate. But this new manager's amendment, rewritten by the Committee on Rules late last night, remains unfair, immoral and unconscionable.

Mr. Speaker, I have three fundamental objections to this bill. First, it establishes a new class of workers who would be treated like indentured servants without coverage under the landmark worker protection and civil rights laws. Second, it concocts a scheme of watered-down grievance procedures and remedies that would render millions of workers unprotected from discrimination and exploitation. And finally, Mr. Speaker, it endangers the job security and financial well-being of millions of current public sector employees by establishing a weak set of nondisplacement protections.

Here is why this proposal treats poor workers like second-class Americans. It denies so-called community service participants employee status and purports to use the old CWEP Program as precedent. But that program was quite different from the workfare program established in this proposal. Whereas that program had a strong training element, the community service program established by this proposal is work, pure and simple.

Community service workers will be employees in every sense of the term.

They will sweat like other workers, their children will get sick just like the children of other workers. And these workers have dreams and aspirations for their families just like other workers.

But this proposal says no, they are not the same and they do not deserve full respect and dignity. Although they will be employed to perform the same tasks performed by other workers, these welfare workers will be denied the protection of the Fair Labor Standards Act, the Occupational Safety and Health Act, the Family and Medical Leave Act and the many other important Federal laws. And those employed by nonprofit private sector employers will be denied the right to organize or bargain collectively.

The grievance procedures established in the rewritten proposal are a house of courts, substantially weaker than protections adopted by the Republicans on the Committee on Education and the Workforce. There is no provision to ensure that the grievances will be fairly heard and adjudicated. In a real blow against due process, there is no appeal from what may well turn out to be a kangaroo court.

Here is an example of how outrageous these grievance procedures are. A woman who has been sexually harassed may be required to seek redress from the very agency where the harassment occurred. Under this proposal that woman would not be entitled to a fair hearing, or the right to appeal an adverse decision. What have poor women done to deserve such indignity?

Finally, protections that were included in the education and work force proposal to ensure that community service workers are not used as pawns in a ploy to displace existing workers have been gutted by the manager's amendment. As reported by the Committee on Education and the Workforce, a welfare worker could not be assigned to an equivalent job if another individual was on layoff status. That protection has now been effectively stripped. As reported by committee, a welfare worker could not be assigned to a job if a consequence of that assignment was the partial displacement of an existing worker. Those protections have also been deleted.

Mr. Speaker, this legislation is nothing short of a bill of exploitation that will leave workers more vulnerable to racism, sexism, and unsafe workplaces. Rather than encouraging work, these provisions demean workers. I urge its resounding defeat.

Mr. SHAYS. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. ARCHER], chairman of the Committee on Ways and Means.

Mr. ARCHER. Mr. Speaker, I thank the gentleman from Connecticut [Mr. SHAYS] for yielding me the time.

Mr. Speaker, today marks a great and a historic day. We are poised to vote on a matter that unites Americans from all generations. We stand ready to vote on a bill that brings the American people together like no other legislation before us.

With this vote, we can balance the budget to save the next generation from the crushing burden of debt, and we can save Medicare from bankruptcy so this generation of seniors can live their retirement years in peace, comfort, and security. It is high time that Washington put the needs of the American people first, and that is what we will do with this vote.

This legislation is bipartisan. Our plan to save Medicare was supported in the Committee on Ways and Means by a 36 to 3 vote. We came together, like the American people want us to do. We will save Medicare by giving seniors choices, by fighting fraud and abuse, and we even expand Medicare's benefits to include new preventive programs that seniors, particularly women, need and deserve.

We help people move from welfare to work by reinforcing the central message of last year's welfare reform law: If you are able to work, you should work. Welfare should not be a way of life. Yes, we made changes in last year's law. Many of the changes were requested by the President. But I am proud to say we uphold our Nation's values by helping people earn a paycheck instead of a welfare check.

I am particularly pleased that with this bill we will finally have a balanced budget. My 12th grandson was born last year, a little 2-pound premature baby. And when I looked at him in that incubator, I realized that when he grows up, his pro rata share on the national debt would be $189,000 during his lifetime.

It is unconscionable for our generation to leave that to our children and our grandchildren. And, for once, we will finally move toward a balanced budget and stop this continued increase in debt service charges for future generations.

Mr. Speaker, I yield back the balance of my time.

Ms. DELAURO. Mr. Speaker, I yield myself 10 seconds.

Mr. Speaker, the fact of the matter is that this spending bill takes away hospitals and nursing homes, reasonable and adequate reimbursement. Medicare solvency comes up 2 years short of the budget agreement. And there are deep cuts in the disproportionate share which adversely affect hospitals across this country. We are not improving the health of people in this country.

Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Ms. VELÁZQUEZ].

Ms. VELÁZQUEZ. Mr. Speaker, today we will vote on the Republican spending bill. The Republicans will say that this is a middle-class budget. Do not believe it for a minute.

In fact, the Republicans are financing tax cuts for the rich by waging war on working families and legal immigrants. And when they talk about a balanced budget, they do not finish the sentence. They should add that they are balancing the budget on the backs of legal immigrants and working families in our country. Not only that, but they are violating the terms of an agreement that they made to the President, the Democrats, and to the American people.

The Republican tax plan will give $27,000 in tax breaks to the wealthiest 1 percent. At the same time, they want to eliminate benefits to legal immigrants who become disabled in the future. These are people who have worked hard, raised families, and paid taxes. These are American values and they are values that immigrants to this country hold dear to their hearts.

Disability benefits are not handouts. How many times do we have to say this?

□ 1445

This is an issue of basic fairness. This budget agreement creates a huge double standard that will permit immigrants to be treated like second-class citizens. Why? To pay for huge tax breaks for the wealthy. Is that what this country is all about? Is that how a just society treats its elderly who become disabled? Is that the message to send to the rest of the world?

Mr. Speaker, this budget is really a disaster. It is cruel, it is unfair, and the American people will not stand for it.

Mr. SHAYS. Mr. Speaker, I ask unanimous consent to allow the gentleman from California [Mr. THOMAS] to control and yield as he may choose the next 12 minutes of our time.

The SPEAKER pro tempore [Mr. DREIER]. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. THOMAS. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, as we carry on what I guess passes for normal debate around here, I think we probably ought to pause for just a moment and not let our partisan juices flow quite as freely as they do sometimes, because quite frankly, the Medicare provision in this bill is remarkable. It is remarkable for a number of reasons, but I think primarily because it sets a standard for what I believe ought to be the way in which we work public policy.

The Medicare Program is as important as any policy that the Federal Government has. It is more important than cheap partisan shots. Trying to resolve one of the more difficult problems that faces all of us and, more importantly, the seniors in this country is important.

I think we have all come to the general agreement that people will consume as much health care as other people are willing to pay for. If in fact that is true, and I think we believe it is, our Medicare Program is clearly in trouble. Bankruptcy was facing it:

With an antiquated and out-of-date delivery system, especially with the rapid changes that are occurring in the private sector health care delivery system and the fact that some of the programs that we offer are as old as the bureaucracy that structured it; that is, we wait until people are sick before we deal with the problem instead of moving aggressively into preventive care and wellness.

This measure, passed by the Committee on Ways and Means and by the Subcommittee on Health, unanimously by the Subcommittee on Health, moves, I think, aggressively in the area of prevention, aggressively in the area of wellness, aggressively to address the question of bankruptcy, and aggressively to open up the system to a choice for seniors.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. STARK]), the ranking member of the Subcommittee on Health.

Mr. STARK. Mr. Speaker, I want to say on behalf of myself and many of the committee's Democrats that we would like to commend the gentleman from California [Mr. THOMAS], the full committee, and the Subcommittee on Health's staff director Chip Kahn for an open and consultative and bipartisan approach to the Medicare legislation. It is really a model, I suspect, of how the legislation should be written.

I am not sure I can quite make myself say that it is a model of legislation, but it was done in a tradition of past Medicare bills. It extends the life of the Medicare trust fund to 2007, it makes reforms in the way we pay providers, and it indeed adds some beneficiary improvements. I do not intend to vote for the budget bill, but it is not because of the Medicare portion. If anybody was thinking of that, I would dissuade them otherwise.

There are some things we should strongly oppose and do differently. We should oppose the Senate's provision to raise the age to 67, which causes more problems I think than it solves. I think we should oppose the Senate's copay provisions because we already charge Tiger Woods on $10 million, $300,000 a year for the same premium that somebody at $10,000 a year would pay $300 for and get the same benefit. Why punish Tiger Woods twice?

The managed care provisions need consumer protections on emergency appeals, and there are some antifraud provisions that we should add. We are going to see a report in the next few weeks that we are spending $20 billion, I think, on fraud. That needs to be improved. We can do that.

Mr. Speaker, I would urge my colleagues to applaud the work that was done. I would not have picked $115 billion as a cut, but that was the number given to our subcommittee and, considering that, they did a fair job of spreading those cuts to do the least amount of harm. Nobody liked it. If anybody had been smiling in the room, we probably would have had the wrong bill. But it was a good job, and I commend the chairman of the subcommittee for his work.

Mr. THOMAS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], a valuable member of the subcommittee.

Mrs. JOHNSON of Connecticut. Mr. Speaker, let me commend the gentleman from California [Mr. THOMAS] for bringing forth a very thoughtful, constructive and bipartisan bill out of the subcommittee. It meets the goals of the budget resolution of extending the life of the Medicare Trust Fund until 2007, but it also makes sound structural changes to better control costs in the Medicare Program which will be especially important when the baby boomer generation begins to retire in 2010.

It increases spending per Medicare beneficiary from $5,480 this year to $6,911 in 2002. Most importantly, it gives Medicare recipients better choices of the kind of insurance coverage they want to select. It gives better choices and it gives better benefits. It has a good, solid preventive package, annual mammograms, comprehensive testing opportunities for prostate cancer, and adopts the prudent layperson's standard for emergency room care. So it guarantees access to emergency room care.

It also guarantees seniors who want to try a managed care plan that they can go back to not only Medicare but to their MediGap policy, thereby guaranteeing them the opportunity to try the kinds of plans that will provide far more benefits for the Medicare dollar.

Finally, it strengthens the protection for those who choose Medicare by strengthening the consumer protection package that governs Medicare managed care plans, providing more timely appeals procedures and in other ways strengthening those benefits. Equally importantly, it provides the opportunity for direct providers of services, doctors and hospitals, to get together and provide a managed care plan for the seniors in their area, a plan in which the medical decision will be totally controlled by the medical providers. This will guarantee better quality in all managed care systems, whether they are provider sponsored or whether they are insurance company sponsored. This is a giant step forward for health care for seniors in America.

Mr. SPRATT. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. RANGEL], the ranking member of the Committee on Ways and Means.

Mr. RANGEL. Mr. Speaker, this is one of the most important periods, I think, in our Nation's history, because it gives us an opportunity to reflect who we are and what made this Nation so great. I think the test is, how do we who are newcomers to this continent treat those who are even more new? As we move into world trade, our greatest asset is the diversity, because with the exception of the Native American, we have the benefit of all of the cultures of the entire world in this great country, and I am fortunate to have a lot of it in my great city of New York.

How many of my colleagues just enjoy thinking about how generations ago, from whatever country, whether it was in Europe or some other country, we had relatives who came to this country, many not with a lot of education or a lot of wealth but they came with a lot of hope. Many of them came illegally because we did not have the sophisticated way of checking. But we are not looking for them. Because those who came had on the docks people who came before them waving and screaming saying that these people are going to make a contribution to this great country. Even those of us who came in chains are saying, "This is a great country." Even the Native Americans are not asking to leave. It is a great country.

But with each wave that came, there was some group of people that wanted to hurt them. Ask the Jews, ask the Polish, ask the Irish. Ask the Italians. There was some group that came here that said the next group was not good enough. Because we Americans are so good in our thinking, we do not ask who was that group that was stamping the hands of those people who were climbing into America to become great citizens, but today the other side has put for the record who they are.

We are now saying if you come to this country, play by the rules, come in and you were working, coming in you had a sponsor, you did everything right, the sponsor died, you got old, you had an accident, we are saying, "You didn't come when our parents or grandparents came, so now we're changing the rules."

My colleagues are not changing the rules by this Congress for the United States of America, and my President, who represents Republicans and Democrats, today's history and tomorrow's history, is going to say, "We're not going to change these rules to save a couple of dollars to throw into capital gains indexing." What we are going to do is to make certain that anyone who wants to come to this great country will be able to come with the same rules and the same protections as for those who came and made this Nation so great.

Mr. THOMAS. Mr. Speaker, I yield myself 15 seconds. For the record, I would like to indicate that the gentleman from New York [Mr. RANGEL] did support the Medicare section of the provision coming out of the Committee on Ways and Means and his remarks were focused on other portions of the

bill. I am sure Members understood that.

Mr. Speaker, I yield 2 minutes to the gentleman from Nevada [Mr. ENSIGN], a very valuable member of the subcommittee.

Mr. ENSIGN. Mr. Speaker, I especially want to compliment the gentleman from California [Mr. THOMAS], the chairman of the subcommittee, for all the great work that he has done, as well as the staff for the work that they have done on this Medicare bill.

I think that this is truly an historic moment in health care in the United States, because what we are doing with this Medicare bill is to try and begin to change our current sick care system. Yes, I said sick care system, because right now if you get sick, we will pay providers to get you better, but we will not pay providers very often to keep you healthy.

This Medicare bill, by providing the bill that I sponsored in the House of Representatives, the annual mammogram screening for women over 65, begins to say, we are going to catch breast cancer early in women over 65. Right now Medicare only pays for every other year mammograms. This is an important first step. But we also cover prostate screening, colorectal screening, and we begin to do some things about keeping diabetics healthier.

I also have a bill, it is called the Medical Nutrition Therapy Act, which we are going to study. We think that dieticians counseling people on nutrition will be able to keep diabetics, cancer patients, heart patients and many others healthier in the years to come to truly make this a true health care system.

Another portion of the bill that I am extremely proud of is the portion that deals with military retirees. Military retirees in the past have had access to great quality military medical care across the country, but because of base closure commissions that have locked military retirees out of facilities all over the country, military retirees are now being locked out of good quality medical care. And because when they turned 65 they had to choose whether to go into Medicare or not, many of them were promised lifetime health care and that promise has been taken back. Now if they choose to go into Medicare, there is a 10 percent penalty per year for them to go into Medicare. This bill will give them a 6-month window to get into Medicare. This is going to affect 100,000 of the people that so richly deserve a good quality health care system in this country.

Ms. DELAURO. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Speaker, I voted for the bipartisan balanced budget agreement. I had great hopes of transcending pointless ideological bickering and producing a model of consensus. But this bill is not the deal Republicans made with the President. The Republican budget bill weakens protection for workfare workers against race, sex, ethnic, and religious discrimination. It creates a two-tiered workplace with a permanently disadvantaged underclass. It does not protect legal residents. It endangers children's hospitals and those serving a disproportionate share of the poor and uninsured.

□ 1500

It slashes support for 2.7 million disabled people, and it destroys individual rights to recovery for medical malpractice.

These are radical changes. These adventures in radicalism were never in the bipartisan budget agreement, and they are not needed.

I hope my New Jersey colleagues know that this legislation will devastate New Jersey hospitals who have continued with their mission to treat all who enter their hospitals' emergency rooms or clinics including the indigent and uninsured. And it would send some of them into bankruptcy.

New Jersey is prepared to accept its share of the national burden in the name of a balanced budget, but this bill treats New Jersey and its hospitals in an inequitable manner. It punishes New Jersey for demonstrating a commitment to providing a lifesaving safety net for its most vulnerable residents.

As my colleagues know, according to the National Center for Children in Poverty, over 120,000 children under 6 years of age in New Jersey, 17 percent live in families with incomes at or below the poverty level, and yet under this agreement New Jersey is one of the States that receives a disproportionately smaller share of the block grant.

Finally, this proposal leaves out a legal immigrant who has a stroke, becomes paralyzed, contracts Alzheimer's disease after August of last year. It eliminates the safety net for law-abiding, hard-working, taxpaying elderly legal immigrants.

Mr. Speaker, it is a deal breaker. Let us not have a deal for the sake of a deal. Let us have a deal that is also balanced on the principles.

Mr. THOMAS. Mr. Speaker, I yield myself 30 seconds.

I tell the gentleman from New Jersey [Mr. MENENDEZ] that we have sat down with the Members from New Jersey. We believe we have addressed that problem. We have solved that problem just as we solved other problems, in concert with the gentleman from California [Mr. STARK], the gentleman from Maryland [Mr. CARDIN], the gentleman from Wisconsin [Mr. KLECZKA], the gentleman from Georgia [Mr. LEWIS] and the gentleman from California [Mr. BECERRA]. Those are the Democratic members of the Subcommittee on Health who voted unanimously in support of the work product in front of us.

Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. RAMSTAD], a member of the Committee on Ways and Means.

Mr. RAMSTAD. Mr. Speaker, as a member of the Committee on Ways and Means I am grateful for the bipartisan pragmatic way in which we put together the Medicare portion of this bill before us today. Not only do we save Medicare from bankruptcy today, we preserve it for tomorrow's seniors.

I would like to focus briefly on the two specific reforms in the bill. One is a reform to make the AAPCC reimbursement formula, the Medicare reimbursement formula, more equitable to States like Minnesota. This is a major reform in the formula. It will mean more equity for States with rural populations and more health care options for Medicare beneficiaries in those States. For the first time there will be a payment floor and a blended formula to bring more fairness and equity to seniors in States like ours.

We also continue to develop new and innovative ways to provide health care to seniors by extending for 2 years the community nursing organization demonstration project. These are very, very important projects again to let seniors live in their own homes longer and also to save important Medicare dollars. This is a vital program for seniors.

Mr. Speaker, I urge all members to support this important legislation.

Ms. DELAURO. Mr. Speaker, I yield 2 minutes to the gentlewoman from Michigan [Ms. STABENOW].

Ms. STABENOW. Mr. Speaker, I rise having voted for the balanced budget agreement and I intend to support a balanced budget agreement on spending and tax cuts that reflects that agreement. Unfortunately, that is not what we have in front of us today.

There are good provisions, there has been good work done, and description has been made of bipartisan efforts in the area of Medicare and other important areas where work had been done and been done well. But this reminds me of the flood bill that was in front of us not long ago where we set down a road to solve a problem, to help people who had been afflicted by floods, and there was good work in the bill. Then piece after piece other things that were added that had nothing to do with the flood bill slowed down the process and almost stopped our ability to achieve the goal.

We have today something in front of us that has all kinds of extra provisions in it that were not in the balanced budget agreement. They take away from our ability to step forward and meet that agreement, and they do not include those things that were

promised in that agreement such as making sure that children of working families, 5 million children, have adequate health care. But they do include all kinds of other provisions that have been thrown in and all kinds of other subjects.

So once again the public expects us to step up and solve the problem and to work together, and then one after another things get thrown in, and we are right back to where we started from without having the support needed to be able to solve the problem.

In voting "no" today I am very hopeful that a message will be sent to those working in the conference committee to take out those things that were not part of the balanced budget agreement, make sure that the provisions that are in there make sense for families, and then let us in a bipartisan way do what it is the American people ask us to do.

Mr. THOMAS. Mr. Speaker, I yield myself 15 seconds, and I tell the gentlewoman who just spoke that as a matter of fact, if she will examine the budget agreement in the area of children's insurance, the 16 billion which was required is part of the agreement; we met the agreement in that area.

Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. WELLER], a valued member of the committee.

Mr. WELLER. Mr. Speaker, I rise in support of this important legislation.

First, I want to commend the gentleman from California [Mr. THOMAS] and the ranking member, the gentleman from California [Mr. STARK] for their bipartisan effort. The bottom line is this legislation saves Medicare, and if my colleagues care about Medicare and if they want Medicare to be around for the next generation of seniors, they will vote "yes" for this legislation.

I am proud that the Committee on Ways and Means under the leadership of the gentleman from California [Mr. THOMAS] has worked closely with the President, with Members of both parties, to fashion a bipartisan solution to extending the life of Medicare. This legislation gives seniors more choices, protects the rights of seniors to choose their own physician and, frankly, offers many new options, new types of coverage, strictly in the area of breast cancer, mammograms for seniors, for women, as well as prostate cancer screening for men, important health care initiatives.

But there is also something that every senior brings up every time I have a senior meeting in my district: this issue of going after waste, fraud, and abuse in Medicare, and frankly I believe it is time that we go after the Medicare kings, those who abuse Medicare, with the same vengeance we have the welfare queens in the past. This legislation toughens penalties, provides "three strikes, you're out," and increases funding for Medicare.

I urge an "aye" vote.

Ms. DELAURO. Mr. Speaker, I yield myself 10 seconds.

I would like to mention that with regard to health care for children, what we find out from the Congressional Budget Office is that the estimate of that $16 billion, is that only 520,000 kids of the 10 million will be covered. The rest are not covered, that 20 percent of the children who do not have access to health care today.

Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. HINCHEY].

Mr. HINCHEY. Mr. Speaker, I must say that there is no balance in this plan that we are being asked to vote on this afternoon, nor does it balance the budget because it has to be seen in the context of the taxing bill that follows hard on its heels. These two bills in concert increase the budget deficit; they do not decrease it.

In fact, shortly into the next century the budget deficit will once again be approaching $100 billion under the Republican plan. Now is this being done by accident? I doubt it. They are doing it intentionally in order to create a circumstance where this Government can no longer afford to pay for the social programs like Medicare and Medicaid and Social Security, just as they tried to do in the 1981 tax cut. That will be the effect of it. Just when the baby boom generation reaches its retirement age, that is when the big deficits kick in under this plan.

The fact of the matter is that the budget today is almost in balance. We have reduced it over the last year some $290 billion, down now to about $50 billion, and if we left the present policies in place, the budget would be in balance shortly.

This bill that we are asked to vote on today is a bill that creates class warfare. It does so by creating those big budget deficits, and it also repeals the social contract for a large number of Americans. It destroys the dignity of work, and it creates a new under class for the first time. That is the extent to which this bill goes in its class warfare by actually creating a new under class of people, people who will be denied the rights of other workers.

Protection under the Fair Labor Standards Act, they will not have that protection. They will not have the protection of equal pay, they will not have protection under the civil rights law, they will not have the protection under OSHA, and they will not have protection from sexual harassment in the workplace.

Finally, what does it do for health care for children, as we have heard so often this afternoon? It does not provide care for 5 million, only for 500,000.

This is a bad bill and has bad implications now and for the future.

The SPEAKER pro tempore. Before the gentlewoman proceeds, the Chair wishes to inform the managers of the bill that the gentleman from Connecticut [Mr. SHAYS] has 47½ minutes remaining, the gentleman from South Carolina [Mr. SPRATT] has 30½ minutes remaining, the gentlewoman from Connecticut [Ms. DELAURO] has 17¼ minutes remaining, and the gentleman from California [Mr. THOMAS] has 1 minute remaining.

Ms. DELAURO. Mr. Speaker, I yield 2 minutes to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Speaker, I supported the budget agreement, and the bill that is on the floor does not contain some of the provisions which I thought were very good and which led me to support the legislation in the Committee on Commerce. And those good provisions are, it extends preventive benefits for Medicare beneficiaries, including diabetes self-management training and blood strips, very important. It increases services and benefits in rural areas, and there is an extension here for States which are operating Medicaid demonstration projects under section 1115 waivers.

However it seems to me that we live by a rule which is that a deal is a deal and fair is fair, and there are things in the bill today which were not in the budget agreement, and I do not think that they are fair for all of our citizens.

One of the things it does is it sets up a two-tiered class of workers by defining that workers who receive welfare are not protected against race, sex, national origin, and religious discrimination, and that is just not fair. It undermines a woman's right to choose by taking the right to choose from poor women, those on Medicaid, and taking from them rights that other women have in this country. I do not think that is fair either.

Then it fails to protect legal immigrants who may become disabled after the welfare bill was signed into law. Mr. Speaker, that is not fair either.

It is my hope that the conference committee will strike the unfair provisions and ensure that the budget agreement is honored so that those of us who supported the budget agreement can indeed support a balanced budget and one which is fair and where the deal stays a deal.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. ROYBAL-ALLARD].

Ms. ROYBAL-ALLARD. Mr. Speaker, today we are debating a budget spending bill that violates the budget agreement and takes away some of the hope and promise built into the original agreement. First, the President and congressional leaders guaranteed $16 billion in health care coverage for 5 million uninsured children in our Nation.

□ 1515

The bill before us takes away that guarantee and creates a large block

grant that could result in untargeted revenue sharing. In other words, the money does not have to be used to cover uninsured children.

Second, welfare reform was to provide a way for able-bodied adults to earn a living and free themselves from the dependency of welfare. Instead, this bill stigmatizes them and strips them of their self-esteem by eliminating workplace protections enjoyed by other American workers, protections such as overtime pay, OSHA, and the Civil Rights Act that protects working Americans from employment discrimination and sexual harassment.

This is a frightening thought when we consider that the majority of welfare-to-work recipients will be women, the most vulnerable to this type of discrimination. At a time when we are encouraging people to choose work over welfare, it is unconscionable to create a hostile work environment for these welfare-to-work recipients by undermining workplace standards.

Finally, the negotiators of the original budget agreement recognize that restoring aid to legal immigrants living in the country prior to August 23, 1996, and later become disabled is good policy and a needed improvement to last year's welfare bill.

This budget bill violates this promise to over 75,000 perspective elderly and disabled immigrants, 30,000 of which live in California. In essence, the majority is saying to these legal immigrants who have worked hard and played by the rules, you can work here and pay taxes into our system, but if you become disabled, we will abandon you.

I urge a "no" vote on this budget reconciliation bill.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, first let me thank the ranking member for yielding me this time.

Mr. Speaker, in regards to the Medicare provisions, I want to applaud the process that was used. It was a true bipartisan process. I want to congratulate the gentleman from California [Mr. THOMAS], the chairman of the Subcommittee on Health, and the gentleman from California [Mr. Stark], the ranking member. Working together, we were able to modernize the Medicare system and extend the solvency of the trust fund for another decade, and we did that protecting the beneficiaries.

Unlike the other body that looked at ways that will affect the beneficiaries by dealing with eligibility and age and means testing and home care copayments, we were able to modernize the Medicare system and extend benefits to our seniors because we worked together, Democrats and Republicans. We improved the process.

I am particularly pleased that we were able to add for the first time preventive health care benefits to Medicare so that it is not just a program for people who get sick, but that we keep our seniors healthy; that we provide for colorectal screening and mammography and diabetes self-management and prostate cancer screenings. We have provided improvements in the Medicare system that will help our seniors.

I am particularly pleased that we were also able to include the prudent layperson's standards for access to emergency care, another issue that we were concerned about in a bipartisan way; that we modernized the hospice benefits, and I could go on and on and on. We were able to do that because every member of the committee was respected for his or her views and we worked together as the process should work together.

Mr. Speaker, on Medicare, the system worked. There are other aspects of the budget where we have not had that same degree of cooperation, and I would hope that we would use the model that the committee was able to do on Medicare in working together to deal with the problems that we have and to improve the programs for our seniors. We could do that in more aspects of the budget agreement, and I hope we will as we move forward on the budget and work together in a bipartisan manner.

Mr. THOMAS. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. DREIER). The gentleman from California is recognized for 1 minute.

Mr. THOMAS. Mr. Speaker, I thank the gentleman from Maryland. It was a pleasure working with him. My hope is that I will have an opportunity to work with him again on important legislation. He may deny me that chance by a decision he may make in another political arena. But the thing I admire most about the gentleman from Maryland is that he deals from a basis of fact.

We have heard a number of people repeat the $16 billion for 5 million children. For the last time, unchallenged, the Congressional Budget Office said the President's plan in his budget, $21.9 billion would produce only 830,000 children covered. If anyone stands up and says, there was a promise of 5 million children and someone reneged, they are playing fast and loose with the facts. The reason we were able to build the consensus was because members of Ways and Means did not do that. Shame on Members if they do it on the floor.

I would like to say, Mr. Speaker, that the Medicare provisions in this mark are outstanding because of the cooperation on both sides of the aisle, and I want to thank all of the members and staff for helping put this magnificent product together.

Ms. DELAURO. Mr. Speaker, I yield myself 25 seconds.

This bill does not help working middle-class American families. My colleagues on the other side of the aisle accuse us of waging class warfare. It is they, in fact, who have declared war on the middle-class and those people who strive to make their way into the middle-class. This bill makes deep cuts in programs for working families who depend on us for what they need to get done. It provides tax breaks for the wealthiest people in this country. I urge my colleagues to vote against it.

Mr. Speaker, I ask unanimous consent that the balance of my time be controlled by the gentleman from New Jersey [Mr. PALLONE].

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

Mr. SHAYS. Mr. Speaker, I yield myself 20 seconds to point out that next year, if one has four children, one will have returned in taxes $1,200. If one makes $40,000, one will get back $1,200. That is a middle-class family, and I think they will be happy to get that.

Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. BILIRAKIS], who is the chairman of the Subcommittee on Health and the Environment of the Committee on Commerce.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for yielding.

Almost 2 weeks ago, Mr. Speaker, the Committee on Commerce forwarded to the House a budget reconciliation bill which reflects the hard work of many Members. I want to stress that all Members were given the opportunity to share their suggestions on improving this legislation, and many of their interests were incorporated into the bill and the chairman's mark or by the amendment process. The Democratic process was allowed to work.

Regarding Medicare, as a Member from a district that has a large number of seniors, I set as a major personal goal the protection of Medicare beneficiaries. And make no mistake about it, Medicare beneficiaries will be protected. In fact, our legislation contains many consumer protections that were not even considered by any of the prior Congresses. It addresses fraud and abuse within the Medicare program and ensures that the Medicare Trust Fund will remain solvent until the year 2008.

The legislation contains many worthwhile policy changes which would greatly benefit the elderly. All Medicare beneficiaries will be given a choice of coverage through a new Medicare Plus program. Medicare Plus would allow beneficiaries to decide whether they want to receive their Medicare coverage through traditional Medicare fee-for-service, or through a newly-created Medicare Plus plan, with the option, I repeat, with the option to return to traditional Medicare.

Regarding Medicaid, this legislation eliminates some of the lengthy waiver

processes so States will obtain relief from burdensome Federal regulations. As a result, a State will have more time and more money to improve the quality of health care. Our committee was required by the budget agreement, if you will, to find savings in the States' disproportionate share programs. Our legislation accomplishes this task in as equitable a manner as is possible considering the parameters placed upon us.

Finally, our package establishes a new child health assistance program which provides grants to States in order to expand health access for currently uninsured children, a plan which received an 18 to 3, an 18 to 3 approval vote from the Democrats on the committee.

In conclusion, Mr. Speaker, I truly believe that this bill must be judged through the prism of our shared responsibility to our constituents and the Nation as a whole, and when our common interests are considered, it is important to bear in mind our ultimate goal: To deliver a balanced budget to the President's desk while at the same time reforming and saving Medicare and Medicaid without in any way hurting the beneficiaries.

Finally, I want to personally thank the majority and minority staff for their hard work. They have put in many hours over the past month, and I want them to know how much we all appreciate their efforts. I especially want to recognize Howard Cohen, Eric Berger, Kay Holcombe, Bridgett Taylor, and Ed Grossman.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentlewoman from Michigan [Ms. RIVERS].

Ms. RIVERS. Mr. Speaker, I find much to criticize in this particular proposal, but I rise today to raise concerns about one particular element, that of medical savings accounts within the Medicare proposals.

The medical savings accounts were not part of the original budget deal and they represent a $2 billion burden on a Medicare system that is struggling to make it into the next century. I am concerned, Mr. Speaker, that only those who are relatively young and healthy may well make this choice and leave the rest of Medicare to treat those who are older, sicker, poorer, and therefore more expensive to care for.

Companies that currently offer MSA's do not want to enroll people with health problems and in fact are not required to do so under the law. As a matter of fact, I would share with my colleagues a communication between a would-be subscriber and Golden Rule Insurance Company in which Golden Rule responds, "Thank you for your interest in our company. We do currently market health insurance, including the medical savings accounts in your State. However, your medical condition of diabetes would not be one that would fall within our underwriting guidelines. Therefore, we would not be able to consider your coverage."

They go on to explain that their underwriting standards are very strict and this allows them to charge the lowest rates.

Mr. Speaker, my concern is that the wealthy and the healthy will leave Medicare, leaving the system to deal with those who are much sicker. We will see costs rise in a way that we cannot afford.

In addition, the MSA's in this bill are not just health plans, they are additional government checks written to those who have sufficient resources to take a risk on a high deductible plan. It is important for people to realize that MSA's can be used for nonmedical expenses as long as the balance of an account stays at 60 percent of the deductible. Moreover, if someone elects to take the money out of their medical savings accounts, up to 40 percent, they are not penalized, as long as they keep that balance.

This is not a health care option, this is just free money. Then, when the large medical expenses begin to loom in the future of the person, MSA holders can then game the system, go back to the main Medicare program and avoid personal responsibility for deductibles of up to $6,000, all the while demanding that the pool that they left behind, that they abandoned, now cover all of their costs.

It is not fair, and it is a good reason to vote no.

Mr. SHAYS. Mr. Speaker, I yield myself 5 seconds to point out that under the Medicare plan they have to take all; they cannot discriminate.

Mr. Speaker, I ask unanimous consent to yield 12 minutes to the gentleman from Florida [Mr. SHAW], who chairs the Subcommittee on Human Resources of the Committee on Ways and Means, the expert on welfare reform, and that he be allowed to control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. SPRATT. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. SABO], former chairman of the Committee on the Budget.

Mr. SABO. Mr. Speaker, I thank my friend, the ranking member, for yielding. Let me say to him, I admire the work that he has done in behalf of this House and our caucus. It has been truly outstanding.

Mr. Speaker, I wish I could be here today to say that I could vote for this bill. I cannot, and I hope I will be able to when it comes back from conference committee.

Mr. Speaker, let me focus on one program that I think has the potential to be a great positive, but is a long way from achieving its goal. That is the program to expand coverage of uninsured children in this country.

□ 1530

There are many problems with the program as it is structured in the bill today. But let me focus on one that has not been subject to much discussion. The reality is that, however we resolve the various disputes that relate to the structure of children's health care, the States will play a vital role. The other reality is that many States have already acted in a very aggressive fashion through Medicaid or through other plans to expand and cover kids with health insurance, sometimes in the public sector and sometimes in the private sector.

Unfortunately, the way the bill is structured today, either by design or by accident, it is structured so it penalizes every State that has acted and rewards the States that have done nothing, or done very little. I think that is both unfair and bad public policy. It sends a totally wrong message to every State in this country that we ask to be aggressive and to be creative in dealing with problems in our country.

How does it happen? The question is, Do we measure the distribution from the Federal Government to the States on the basis of kids in need? I think we should. Unfortunately, the bill simply does it by the number of uninsured kids, which guarantees that every State that has acted is penalized. I would hope, as this bill goes to conference, that we resolve some of the definition of benefits and the scope of coverage in an adequate way, but let us also not penalize States for having acted.

Mr. SHAW. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, there have been several speakers who have come to the floor on the other side of the aisle who have, I am sure unintentionally, misstated what this bill says. I would like to say to them in the area of discrimination that people coming off of welfare certainly are not discriminated against. In fact, they are protected by title VI of the civil rights bill, which reads, and which is incorporated into the law, that "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Mr. Speaker, I yield 3 minutes to the gentlewoman from Washington [Ms. DUNN], a member of the Committee on Ways and Means.

Ms. DUNN. Mr. Speaker, I am pleased to speak in support of the provisions in the Balanced Budget Act that strengthen the welfare reform law signed into law last August by our President. We have made several improvements to our new welfare system,

improvements that reinforce the value of work, not the dependence on welfare.

These changes also reflect a good-faith compromise that was made with the President on the transition from welfare to work for noncitizens. Our new bill maintains our basic policy on the matter of welfare and workfare for noncitizens as a policy that is based on the belief that taxpayer-funded assistance should be reserved for people who are citizens of the United States.

The budget reaffirms that people who come to America will be welcome to pursue the opportunities of our great Nation, but not to go on welfare. We encourage those individuals to seek support not from the taxpayer but from their relatives and their sponsors, as has long been the law in this Nation.

We came to a compromise, Mr. Speaker, on the issue of benefits for elderly and for disabled noncitizens who were already receiving assistance before the welfare reform bill was passed last August. To them this bill says: You will not be asked to play by different rules. The rules of the game will be the same. If you were in a nursing home on August 22, 1996, you will retain that benefit. If you were receiving SSI last August 22, you will continue to receive that assistance.

We have set $9 billion aside, and I will make that loud and clear; noncitizens getting benefits on August 22, 1996, are grandfathered, period.

In the era of the minimum wage, we guarantee that those on workfare will receive the minimum wage, but we also believe in calculating this minimum wage that food stamps as well as cash be considered. That total will determine how many hours of work a person will work.

The bill also includes a $3 billion welfare-to-work grant which specifically is targeted to the hardest hit. This money will be provided to areas with the highest concentrations of poverty, unemployment, and people on welfare. This grant truly will focus resources on the areas most in need. This is new money since last year's bill was signed, and it is another effort to get welfare money to people who truly need these dollars.

Mr. Speaker, I urge my colleagues to support this budget.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. DAVIS].

Mr. DAVIS of Florida. Mr. Speaker, I rise in qualified support of the budget resolution. As a member of the Committee on the Budget, I have worked hard with the gentleman from South Carolina [Mr. SPRATT] and others to try to conform the budget resolution to the budget agreement, and to strike the balance between protecting our Nation's priorities and securing a reasonable approach toward a balanced budget. The budget agreement in fact did do that.

Unfortunately, the agreement just barely does that now. It still continues to balance the budget, and I will vote for it today for that reason, because it also protects our most important priorities. We are dangerously close to unraveling this agreement because of many extraneous matters that have been inserted in it, including some of which were specifically agreed not to be pursued as part of the budget agreement.

Let me share with the Members two of the more egregious examples. One is the alterations to the Federal Labor Standards Act that have been discussed, that have the effect of reducing people who are moving from welfare into work to second-class citizens in terms of some of the protections we otherwise afford to employees.

The second provision, which was specifically agreed not to be included in the budget agreement, was to treat legal immigrants differently with respect to eligibility for disability benefits. These are two provisions that must be fixed in the conference committee in order for this budget agreement, in order for the Budget Reconciliation Act, to pass.

I will vote for it today, but let us not repeat the same mistakes we made on flood relief. Let us not load up what otherwise could be a good bill with unrelated matters that will have the effect of forcing a veto and taking us off track.

Mr. Speaker, I rise in qualified support of H.R. 2015, the entitlement reform portion of the budget reconciliation package. I strongly supported the budget agreement and the resolution we passed last month. I believe that agreement represented a fair compromise and a good first step in restoring fiscal sanity to our Federal budget process. Now, a little over a month later, with the details of the plan filled in, there are serious questions whether certain provisions in the bill before us today violate both the spirit and the letter of the agreement.

Last Friday, I voted for this bill, in committee, with the clear understanding that a manager's amendment would be offered to fix many of the most egregious shortcomings in the bill. Some of them, such as the protection of low-income Medicare beneficiaries, the expansion of children's health coverage, and the minimum wage security for participants in workfare, have been modified. Unfortunately, critical differences have not yet been resolved on a range of issues including the restoration of benefits for legal immigrants—which was explicitly included in the agreement—and the application of all Fair Labor Standards Act protections to workfare participants.

I am concerned that we are again set to play politics and brinkmanship on an issue of vital importance to the American people. Last month, Congress loaded up the disaster supplemental appropriations bill with extraneous provisions the President was certain to veto. After weeks of delays, causing serious problems for the flood victims, we finally stopped the wars of rhetoric and posturing, and sent an appropriate bill to the President.

Now I am concerned that a similar mistake will be made on the balanced budget agreement—trying to push the President into a corner by adding extraneous items which have no place in a deficit reduction package. For example, medical malpractice reform is a serious issue which warrants serious consideration outside of this reconciliation bill but which only jeopardizes the chances that this package will ultimately be enacted into law.

Ultimately, I believe these issues will be addressed in the conference committee, the next step for this bill, and I will support the package today as a recommitment to the goals of the bipartisan budget agreement and in an effort to move this process forward to conference. My hope is that by the end of the conference, we will all be able to enthusiastically support the reconciliation bill representing both the letter and the spirit of the historic bipartisan agreement.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. ENGLISH], a very valuable member of the committee.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of the Balanced Budget Act, in part because this legislation contains a vital $3 billion welfare-to-work grant program to create a path for long-term welfare recipients to enter the work force. For welfare reform to work, we have to give the States and the localities the flexible tools they need to provide a transition for people to leave welfare, to escape the poverty trap, and to enter the mainstream of the American economy. This program, developed in the Committee on Ways and Means, does just that.

Mr. Speaker, the focus of this funding is on areas with the highest concentrations of poverty, unemployment, and welfare enrollment, so resources will be available to those areas with the greatest need. We know we do not have sufficient programs for incentives currently to help welfare recipients with little work experience successfully enter the work force. This program, coupled with the expanded work opportunity tax credit and the new welfare-to-work credit contained in the tax section of our budget, create real opportunities for the able-bodied poor to participate in the productive economy. It will encourage State policy creativity in developing local solutions to move people from welfare to work.

There is also a strong workfare provision in this bill. Just to remind the folks on the other side of the aisle, it contains protections for minimum wage. It contains protections for the 40-hour work week, for antidiscrimination legislation, protections for health and safety, protections for nondisplacement and a grievance procedure. To listen to the speeches on the floor this morning, we would think they have not read the bill.

Mr. Speaker, I urge all of my colleagues on both sides of the aisle, especially those representing depressed urban communities, to support this legislation and provide the assistance their constituents need to get out of the welfare trap.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I intend to support the bill before us, although I find it to be a disappointingly close call. We are early in the legislative process on actually carrying through this historic balanced budget agreement reached earlier between congressional leaders and the President, and affirmed earlier by this Chamber in the budget resolution. Now that we get down to the actual business of the legislating language, I find that the package before us substantially carries forward the agreement and the resolution, getting us on a balanced budget footing. Unfortunately, it falls short of the guarantees explicitly that are part of the agreement, like the commitment to extend coverage to children.

In other areas, totally nonbudget items are jammed onto this bill, much like the nondisaster aid items that bedeviled us so in trying to get relief to the flood-stricken areas for weeks.

An area here that I find most disturbing is the expansion of portability and health insurance coverage Act, known as EPHIC. It is the old multiple employer welfare arrangement rejected in the last Congress, that has again been jammed into this bill. This provision, if ultimately enacted, would deprive ultimately millions of people in the workplace from their State-provided consumer protections in dealing with health insurance. Do we think that is a good idea? I certainly do not. But it is an important concept that, at least, would warrant debate.

When I went to the Committee on Rules to seek, along with a Republican colleague, a stand-alone debate on this nonbudget item, in the context of this act, we were not allowed it. It is a classic case of taking a policy nugget unrelated to the budget and jamming it into the bill. As far as I am concerned, this is a deal-breaker, and I will vote against the bill coming out of conference committee if it looks like the bill before us.

But we are not at that point in time. It is important to keep the process moving, and therefore, I urge a "yes" vote.

Mr. SPRATT. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. MINGE].

Mr. MINGE. Mr. Speaker, the legislation now moving through this body is unsettling to most of us. It is marketed by many as the path to balance the budget. Indeed, it appears we are more likely to balance the budget with this legislation than without it. However, I would like to emphasize, it is a close call. We should be humble when we talk about the legislation.

To move the process ahead to conference, to show support for the President, to demonstrate bipartisanship, I will vote for the bill. But let me add some caveats.

First, we need strong enforcement mechanisms in all legislation that affects the budget. Second, we must stop using the Social Security trust fund to mask the size of the deficit, and recognize the long-term train wreck that awaits us with the Social Security system if we do not aggressively move to fix it.

Finally, we must try harder. We must avoid exploding tax cuts, we must not give blank checks to programs, we must limit our appetite for weapons systems. This legislation is one small step in the political process. Let us move the process ahead.

Mr. SHAW. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona [Mr. HAYWORTH], a valuable member of the Committee on Ways and Means, and a member of the Subcommittee on Human Resources.

□ 1545

Mr. Speaker, I thank the subcommittee chairman for yielding me the time.

Mr. Speaker, I would invite those who control the television cameras which broadcast these proceedings from coast to coast and around the world to take the proper perspective as I address in this well one of the dangers we face from those who would oppose this reconciliation act, one of the dangers we face from those who continue to distort what is at stake for the American people.

Mr. Speaker, I hold here H.R. 3734, one of the crowning achievements of the 104th Congress. Mr. Speaker, it is this bill that took the important steps in the 104th Congress to change welfare as we knew it, to move people from welfare to work.

Mr. Speaker, the danger in opposing the provisions that the new majority offers in this act would have the effect of taking this important piece of legislation and throwing it away, dropping it into the trash can, radically changing the intent of what transpires.

Good people can disagree. I will offer a perspective that needs to be heard, Mr. Speaker, by the American people and especially those who continue to champion the endless expansion of benefits and the destruction of welfare reform. Let me offer a real story from a real State, the 48th State in this Nation, the one that I represent, Arizona.

Let me quote to my colleagues the perspective of the Arizona Department of Economic Security director, Linda Blessing, in talking about the old welfare programs, "The status quo was not cutting it," and to further quote from her statement, "We handcuffed people into dependency."

Mr. Speaker, the facts are that we have moved in a successful, deliberate, commonsense fashion to move people from welfare to work. More than 38,000 welfare recipients have dropped off the roles in Arizona since 1994, when the height of the enrollment in our State in that year was 195,000. The taxpayer-supported welfare program in Arizona has helped 23,000 recipients find needed employment training, placed 6,800 recipients in jobs, that is an increase of 1,000 recipients from last year.

We need to continue the successful trend, allow States like my home State of Arizona to work with the $3 billion welfare-to-work grant to move yet more families from welfare to work. What we provide for this, this legislation does so because we have listened to the Governors. We have improved the legislation. We have expanded educational benefits. We have taken a commonsense approach. The Federal Government, along with State governments, both made great strides with the welfare reforms passed last year. Now is the time to provide those State and local governments with flexibility. Do not trash welfare reform; build on it. Adopt the resolution.

Mr. SPRATT. Mr. Speaker, I yield 30 seconds to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON LEE of Texas. Mr. Speaker, what my good friend from Arizona fails to acknowledge is that welfare reform in its best sense was bipartisan of Democrats and Republicans. What this spending bill does is takes the rights away from working welfare people, does not provide them with protections of fair labor standards laws, does not provide them with protection against sexual harassment, does not treat them as workers who get equal pay for equal work. That is why we are against this spending bill, because it dishes the welfare reform that we put together in a bipartisan Congress. I am ashamed of what is coming about in this pending bill.

Mr. SPRATT. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. DINGELL], ranking member of the Committee on Commerce.

Mr. DINGELL. Mr. Speaker, I commend my good friend for the fine work which he has done on this very important subject. I had voted for the prior resolutions on this matter. I regret I will not be able to do so.

This budget suffers from a number of fatal defects, the most important of which, it breaches agreements contained in the earlier budget resolution and it will not achieve a balanced budget. There are a number of defects with regard to medical savings, with regard to moneys which should better be spent for preventive care such as

mammographies, prostate cancer screening, and more. The bill treats the young people of this country poorly. It will not achieve a balanced budget. The Committee on Rules put in sweeping amendments to the section on spectrum auctions that have completely gutted taxpayer protections that were included in the Committee on Commerce's recommendations.

Our committee made sure that the public's assets would not be sold at fire sale prices by permitting spectrum auctions to be canceled if they did not raise a minimum amount of revenue. The policy changes included in this bill were rejected by the Committee on Commerce members, and for good reason; they do not protect American taxpayers. Indeed they do great harm to them.

My colleagues need to know one issue of permanent and paramount importance. A sizable portion of this budget bill is held together by sham and fraud consisting of phony revenue assumptions about the value of spectrum auctions. We know that the revenue assumptions here are phony. We have seen them before.

Last September Congress ordered a spectrum auction for the sole purpose of plugging a revenue gap. CBO estimated that the auction would raise $1.8 billion. Instead the auction produced just $13 million, less than one penny on the dollar. One speculator won the right to serve four States for a total of $4. It appears that the Committee on the Budget, like the Bourbons of France, have learned nothing from this and forget nothing also.

The evidence shows that the market for radio spectrum is saturated and demand is at an all-time low. Yet we are, under the aegis of the Committee on the Budget, proceeding to rush forward to sell out spectrum for pennies on the dollar under a pretense that it will balance the budget. In fact, it will not. The money is not there and we are looking at further deficits because of the fact that we have lied to ourselves, lied to each other, and lied to the American people.

Even the FCC chairman says his engineers cannot identify where at least half the spectrum will come from and that they have no idea how this will be accomplished. We have also learned that some of the spectrum identified for auction in this bill is currently used by the FAA. We can be sure then that this proposal will jeopardize the health and the safety of the flying public.

Beyond this, the GAO report says operations like Desert Storm could be severely impaired by the auction of radio frequencies. Can the Committee on the Budget or the Committee on Rules assure members of this committee that the bill will not have a disastrous effect on the viability of the Nation's military operations? Put your expertise against the GAO, which says that this puts our national defense effort at severe risk.

The losers here are going to be the American taxpayers who are not only being misled but who will continue to face a continued mounting budgetary deficit because of a phony set of assumptions and a doomed-to-fail policy on spectrum auctions.

Mr. SHAW. Mr. Speaker, I yield myself such time as I have remaining.

The SPEAKER pro tempore (Mr. DREIER). The gentleman from Florida [Mr. SHAW] is recognized for 4 minutes.

Mr. SHAW. Mr. Speaker, a year ago, approximately a year ago, I stood at this microphone in support of welfare reform, a most historic bill.

The gentlewoman from Texas a few moments ago said that she supported it. If we look at the voting records, she did not. She voted against it.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentleman yield?

Mr. SHAW. No, I will not, Mr. Speaker.

But I would like to give her the good news, that since welfare reform, since 1995, in the State of Texas the welfare rolls are down 24 percent. That is unheard of. It is unprecedented in the history of this country. Welfare reform has done more for the poor, the needy, than any piece of legislation that has ever come out of this Congress. And let there be no mistake about it. Those figures are out there and they are nationwide. Nationwide. It has been a tremendous success.

When I stood here a year ago I said there was still much work to be done. There were corrections to be made. I want to do away with some of the rhetoric and some of the misinformation that has been on this floor today. We do not provide or allow for in this bill any discrimination about people coming off of welfare. On unemployment, the people that are going into the private sector, they have all of the protection that any of the workers in this country have. Those that are working for their benefits, they have the protection against discrimination. However, there are a few protections they do not have. When their benefits run out, they cannot start collecting unemployment compensation. They do not have the FICA contributions. Those are things that there is disagreement in this conference about. I recognize that, but I must say to the Speaker and to my colleagues that once they get into the private sector, there is no difference between them and any other worker.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentleman yield?

Mr. SHAW. No, I will not.

Mr. Speaker, I would ask the Chair to admonish the gentlewoman from Texas not to interrupt me.

The SPEAKER pro tempore. The gentleman from Florida [Mr. SHAW] controls the time.

Mr. SHAW. Mr. Speaker, there is also another area that I think that there is great misunderstanding, there is the part referring to SSI for noncitizens. We have a genuine disagreement with the President. We thought we came up with a better solution. The President's plan would call for 60 percent of noncitizens, the elderly, to come off of SSI. We did not want to do that. So what we did, we grandfathered in all of the noncitizens that were receiving SSI on August 22, when the welfare bill was signed. We thought that was much fairer than pushing them out and then having them come back and prove that they were disabled, knowing that roughly half of them would never get back on and they would lose their Medicaid as well as their SSI payments.

This is very important. We thought ours was the more humane way to go. The President thought it was best to take the elderly off and exchange their benefits to allow people that were here on August 22 that might become disabled, most of them will not, but those that did become disabled sometime in the future could get onto SSI. It is a disagreement we have, but it I might say in the full committee, after we made our argument, no one even offered the President's plan. No one offered the President's plan in the Committee on Ways and Means. Why? Because they did not want to hear the argument that they were throwing the elderly off. I do not blame them. I would not have offered it either.

Another area that I would like to discuss is the area of minimum wage. In this bill, in a very bipartisan manner, we adopted the President's definition of minimum wage. We say in determination of minimum wage when working for your benefits that the only thing that will be included is the cash payments and the food stamps.

This is what the President wanted. This is what we gave to the President. This is a bipartisan bill and we have taken a bipartisan attitude in working with many of the Democrats. I hope that we get a good vote. Vote "yes" on the bill.

The SPEAKER pro tempore. The time of the gentleman from Florida [Mr. SHAW] has expired.

Mr. PALLONE. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Speaker, I speak as someone who supported the reform of AFDC and I very much continue to support it. Let me address two issues.

The Fair Labor Standards Act. I favor moving people off of welfare to work. They should not be treated as second-class citizens, and you do that. You take away the protection of the Fair Labor Standards Act, and then you go back in, the States must pay a minimum wage. They do not have the protection of Federal law. There is no clear enforcement, and you take away

the protection against sexual harassment. Why? What do you do that for?

People should move from welfare to work. They should not be second-class citizens. Period.

In fact, our hope is the opposite, to maintain the dignity and the integrity of work. Legal immigrants; look, we did not offer the President's proposal. We offered something that built on that. It was turned down by one vote, even though there was the money there to pay for it. The gentlewoman from Washington said, well, everybody should play by the same rules. No, you are asking people who were here August of 1996, who became injured after that, to play by different rules. They are out in the cold. That is an irrational, inhumane line. We should not be drawing it.

I am going to vote against this bill in part because I am hoping that we will indeed have Mr. SHAW, whom I very much respect, in a bipartisan effort to work out these problems in conference committee. Do not treat anybody in this institution as a second-class citizen and do not renege on the budget agreement regarding legal immigrants. They were here legally. We should not differentiate people according to when they were disabled.

Mr. SHAYS. Mr. Speaker, I ask unanimous consent that the distinguished chairman of the Committee on Commerce, the gentleman from Virginia [Mr. BLILEY], control 12 minutes of the time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The Chair recognizes the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Speaker, I yield myself 2½ minutes.

Mr. Speaker, we are at a historic point for this Congress. For the first time in 32 years, we have the ability to balance the Federal budget by the year 2002. The bipartisan agreement set forth by the administration and this Congress allows each of us the opportunity to address the most serious and immediate issues facing our Nation today. In particular, the Committee on Commerce labored long and hard to meet its shared goals of balancing the budget.

□ 1600

We strengthened and preserved the Medicare Program. Today's beneficiaries will have access to a wide variety of coverage choices and a broader package of preventive benefits. They will be served by stronger antifraud measures and beneficiary protections. Tomorrow's Medicare beneficiaries are also served by this legislation which establishes a baby boom commission to identify solutions to the long-term fiscal threats facing the Medicare Program.

We adopted flexibility reforms under the Medicaid Program long sought by the States and proposed by the administration in its 1998 budget. It establishes new coverage options, including 12-month continuous coverage of children and enhanced managed care quality assurance standards.

Finally, the committee approved legislation that targets $16 billion to expand coverage and services to low-income uninsured children. Most of this fund is made available to the States through the Child Health Assistance Program, a matched mandatory grant program for low-income uninsured children. The program provides coverage and services such as immunizations and other medications that will expand coverage and provide much needed services to low-income uninsured children.

It is no small task to produce a package which extends the solvency of the Medicare Program, improves benefits for Medicare beneficiaries, and provides coverage and services for low-income uninsured children. But that is exactly what we have done. I am proud of the work that the Committee on Commerce has done, and I believe that every member of the committee and every Member of this House should be proud of supporting this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, as a member of the Committee on the Budget who has supported this balanced budget agreement, I view this reconciliation bill to implement it as most unfortunate. In fact, I think it should go under the title "wreckconciliation" because it really wrecks this balanced budget agreement. It lacks in enforcement provisions.

My colleagues will recall that we got a balanced budget agreement only at the last minute with some strange assumptions, a gyration that generated a spare $225 billion, or there would be a hole that big in the balanced budget agreement.

Well, yesterday the same thing happened. They were about $11 billion short yesterday; and instead of trimming spending or adjusting the tax breaks, they felt the best thing to do was to speculate on a spectrum auction that will occur over the next 5 years and manipulate the numbers to add $11 billion so that it would work out just right.

You see, this agreement is based on many questionable assumptions that we hope will come true. It represents promises. It represents a hope and a prayer. It represents a firm "maybe". But it certainly is not a guarantee that we will ever have a balanced budget. And that is why it is so important to have meaningful enforcement provisions, not some day in the future but right here in this agreement. It lacks them; and, therefore, I say it is a wreck of that budget agreement.

Well, if it is a wreck for our fiscal health, what about our physical health? For the 10 million American children who have no health insurance, growing by 3,000 children a day, it is truly a wreck because not one of them is guaranteed access to health insurance under this bill. And for Texans, it means almost $1 billion less for Texas hospitals.

This is a step backward. It is a step away from this budget agreement. And now is no time to avoid the need for enforcement of the budget agreement and for addressing the real health care concerns of working American families

Mr. BLILEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Speaker, I thank the gentleman from Virginia [Mr. BLILEY] for yielding me the time, and I want to congratulate him on the work he has done.

Mr. Speaker, we hear a lot of speeches here. Some are pretty informational, and some really border on demagoguery, just plain demagoguery. But let us look at the facts.

The facts are, if KidCare services are dropped, at least 2.6 million low-income uninsured kids will lose. The analysis by CBO and CRS estimated that KidCare services will insure an additional 2.595 million children. Preserving the services of KidCare insures a grand total of 5 million currently uninsured children.

So what we saw a few minutes ago is not what we get. What we really get are kids that do not have insurance today being covered, being able to go to the doctor, being able to go to the emergency room, being able to be taken care of and get the inoculations they need.

The budget agreement calls for KidCare services, and not only services but the expanded coverage low-income and uninsured kids do not have today. The KidCare agreement provides children's health services. It helps hospitals and community health centers. That is where the entities are that can best help our children, the most unserved children today.

The budget agreement also provides and allows services to make support for our Nation's 70 Children's Hospitals possible. I thank the gentleman from Virginia [Mr. BLILEY], the chairman, for the fine work he has done.

Mr. SPRATT. Mr. Speaker, I yield 2¼ minutes to the gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. Speaker, first of all I want to thank the gentleman from South Carolina [Mr. SPRATT], the ranking Democrat, for recognizing me and thank him for the work he has done on this bill.

My colleagues, this is a very difficult bill. On the one hand, there are some things in this bill that are really quite good. I commend the Committee on Commerce for the work that they did with respect to medical education and the carve-out of the AAPCC so the that managed-care companies will once and for all begin to share in the cost of medical education because they also share in the benefit. That is a very important issue. I hope that survives the conference, should this bill move through and pass today.

It also includes another provision which I have sponsored, as I have sponsored legislation dealing with medical education, dealing with Medigap or supplemental insurance, in providing for annual coverage and the ability for our senior citizens to really have a choice between managed care and fee-for-service by being able to move back and forth and not lose their right to that Medigap insurance.

It includes the PSO for providers such as hospitals and physicians to compete effectively with managed care in this new health care world that we have. Those are good things, and I hope they survive. And, of course, it does extend the Medicare Program and it does balance the budget, and that is good as well.

But, my colleagues, I still have great concerns about the Committee on Commerce portion dealing with disproportionate share under the Medicaid part of the bill. That would treat 13 States, including my home State of Texas, much differently than it would treat the other 37 States.

Those 13 States would receive a 40 percent cut in their disproportionate share in the year 2002, twice as much as the next nearest State under the formula that is used. And the formula is flawed because the formula uses as the baseline the fiscal year 1995 numbers, but it determines the State by using fiscal year 1997 numbers. The problem with this is they are using two different types of data. They are using data from fiscal year 1995 and data from fiscal year 1997. It is highly inequitable to the 13 States, including the State of Texas.

This matter absolutely must be fixed by the administration and by the conferees if this bill is going to be forwarded to all the States of the Union.

Mr. Speaker, I am voting for this legislation today to continue our process toward enacting a fair plan that balances the Federal budget for the first time since 1969. But I do so only after receiving the strong commitment of the Clinton administration and Budget Committee Chairman JOHN KASICH to correct a Medicaid cut formula that is unfair to Texas and 12 other States dependent on the Disproportionate Share Hospital [DSH] Program.

My future support for this legislation is contingent on the conference committee correcting the DSH formula so that it is fair to Texas. If that does not happen, I will not vote for the conference report.

I am pleased that, during debate on the rule for this legislation, Chairman KASICH repeated the pledge he made in the Budget Committee to change the DSH formula to make it more reasonable and fair. I am also pleased that Office of Management and Budget Director Franklin Raines has written me a letter stating:

We will make correcting the DSH formula as it relates to high DSH states a priority in conference, and I look forward to developing an equitable solution to this problem.

I will enter the full text of this letter in the RECORD after my remarks.

I want to emphasize that I strongly support balancing the Federal budget. I supported the bipartisan balanced budget agreement between the President and the congressional leadership, and I voted for the budget resolution.

There are many things in this legislation that I support and applaud. I commend the Rules Committee for improvements it has made to ensure that this legislation does provide $16 billion to expand health insurance for children and protect low-income senior citizens from increases in Medicare premiums. I strongly support two provisions in the Medicare reform section that I have advocated and that would greatly benefit our Nation's health care system. These provisions, which are similar to legislation I have introduced, would help ensure that senior citizens have real choice under Medicare and our Nation continues to invest properly in medical education at teaching hospitals. Both of these provisions were included in the Commerce Committee version of Medicare reform, and I strongly urge that they be included in the final legislation.

The first provision would give senior citizens who transfer into a managed care plan the right to buy supplemental insurance, Medigap, which pays for prescriptions and other vital services, if they return to traditional fee-for-service Medicare. Seniors currently lack this right, and this is a tremendous obstacle to real choice in Medicare.

The second provision would ensure that Medicare managed care plans help fund medical education in the same as fee-for-service Medicare. The Commerce Committee proposal would carve out graduate medical education [GME], as well as disproportionate share hospital DSH, amounts from the average adjusted per capita cost [AAPCC] payment to Medicare managed care plans. This approach would ensure that this funding is used as intended to fund GME and DSH. This plan would not increase Federal spending; rather, it would recapture funds from the current Medicare managed care reimbursement formula so that all Medicare plans help pay for the cost of graduate medical education.

These provisions represent important progress. Nevertheless, I am strongly opposed to the Medicaid provisions of this bill that would so unfairly devastate the efforts of my State and many other States to provide necessary health care to the poorest patients. There is bipartisan agreement in Congress that we need to reform the disproportionate share hospital [DSH] program to contain costs and prevent abuse of the program. But these reforms must be fair and reasonable, not arbitrary and punitive as they are in this legislation.

Under this legislation, Texas and 12 other so-called high-DSH States would have their funding cut by twice the percentage of other States. In the year 2002, funding for high-DSH States would be cut by 40 percent, while funding for other States would be cut by 20 percent or not at all. As a result, 13 States contribute 57 percent of the savings required, while some States bear no cuts at all. These States are Alabama, Colorado, Connecticut, Kansas, Louisiana, Maine, Missouri, Nevada, New Hampshire, New Jersey, South Carolina, Tennessee, and Texas. These States would face the closure of rural and urban public hospitals and substantial reductions in necessary health care for uninsured or indigent patients, particularly children.

Additionally, the Nation's children's hospitals would inherit an unsustainable financial burden as their caseload is often mainly Medicaid or indigent care.

I had sought to offer an amendment that would take a more fair approach that cuts each State's DSH funding by the same percentage. High-DSH States still would be cut by larger dollar amounts, but the cuts would be proportional and all States would contribute. This would not have increased total expenditures. Unfortunately, this amendment was not allowed.

I am also concerned about provisions in this legislation that do not adequately protect the right of participants in welfare-to-work programs; that privatize the determination of eligibility agreement to use the full $16 billion to extend insurance coverage to uninsured children. These and other areas in which this legislation falls short of the budget agreement must be corrected by the conference committee.

I look forward to working with the administration and the conferees to address these issues and especially to ensure a more fair and responsible formula for cutting Medicaid DSH funding. The Medicaid DSH issue is vital to my State and many others, and I will not vote for a conference report that does not fairly resolve this issue.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,

Washington, DC, June 25, 1997.

Hon. KEN BENTSEN,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE BENTSEN: Thank you for sharing with me your concerns about the impact of the disproportionate share hospital (DSH) payment reductions on the State of Texas in the House reconciliation bill.

The DSH savings proposal in the President's 1998 budget was designed to ensure that States with the highest DSH spending do not unfairly bear the impact of the savings policy. The Administration remains committed to this policy.

As Congress recognized in OBRA 1993, a DSH savings policy that did not take account of which States rely most heavily on DSH financing could have too harsh an impact on certain States and could likely affect their ability to cover services. Thus far, the DSH savings proposal in the House reconciliation bill does not fairly target the remaining DSH funds to States with the greatest need, and the Administration has urged the House to revisit the proposal in the President's budget.

We will make correcting the DSH formula as it relates to high DSH States a priority in conference, and I look forward to working with you to develop an equitable solution to this problem.

Thank you again for your call.

Sincerely,

FRANKLIN D. RAINES.

Mr. BLILEY. Mr. Speaker, I yield 1 minute to the gentleman from Iowa [Mr. GANSKE], a member of the committee.

Mr. GANSKE. Mr. Speaker, I rise in support of the Medicare reform provisions before us. In large part, the bills produced by the Committee on Commerce and the Committee on Ways and Means are very similar, but there are some important differences.

Unlike the Ways and Means bill, the Commerce provisions carve out graduate medical education and disproportionate share hospital payments from the monthly rate paid to Medicare plans. This is an important provision that should be enacted into law.

Currently, GME and DSH payments are included in the rate paid to Medicare HMO's. That money is supposed to be passed on to those hospitals which need additional support to train the next generation of health care providers and provide a safety net for the poorest and sickest Americans.

But there is much evidence that Medicare managed care plans fail to pass these funds through as intended. Supporters of the carve-out include the Physician Payment Review Commission and the Prospective Payment Assessment Commission. The impact on teaching and safety net hospitals is evident. The accounting firm of Deloitte and Touche wrote that "without some means to modify the AAPCC, support for education and patient care-related missions and care for the low-income poor will be diminished."

Mr. Speaker, it would be irresponsible for Congress not to ensure that these payments actively support specified missions.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, I ask my colleagues, why is it when the majority proposes spending cuts, it is women and children first?

I voted for the balanced budget agreement because I was really hopeful that roughneck politics had been passed aside to reach a grander goal. Democrats and Republicans were willing to give some to gain a lot. It was a textbook example of the art of compromise, actually. But somewhere between the House floor and the committee rooms, the deal unraveled and this unacceptable bill emerged, a bill that undermines the budget agreement and adds new provisions that were never even discussed and, in fact, have little to do with balancing the budget in the first place.

The bill sends funds that we targeted for child health coverage to States as block grants. This means Governors can spend the money for programs that have nothing to do with providing children with basic health care. Under this plan, less than half a million kids will get coverage. Talk about a sellout.

But that is not even the worst of it. The same leadership who shut down the Government and held flood victims hostage has once again included an extraneous, divisive issue in its must-pass legislation. The majority is using this bill to codify into law the Hyde amendment.

The Hyde amendment takes away reproductive rights for hundreds of thousands of poor women. Roe versus Wade does not exist when you cannot afford to pay the bill. This bill also takes away other rights from poor women. It drops women who are in welfare-to-work programs into a new under class of employees not entitled to protections, protections against sexual harassment, discrimination, unsafe workplaces, and unfair labor practices. I cannot support this bill.

Mr. BLILEY. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I acknowledge the commitment of the gentleman from Ohio, Chairman KASICH, to working out the DSH payments in this bill.

Mr. Speaker, I rise in support of H.R. 2015, the Balanced Budget Act with reservations.

We are on the verge of passing legislation that, for the first time in more than a generation, will set us on the trail toward a balanced budget. This goal of a balanced budget is not an abstract exercise that some economists or "green-eyed shade types" thought-up in some ivory tower. It is an essential economic tool to get the savings and capital investment we desperately need for research and development, and new plant and equipment to rebuild the American economy; keep us competitive in the global economy and create the good jobs at good wages we need for this generation and those to come. For these reasons I believe we must keep this progress going with the full expectations that the final conference report will get strong endorsement.

Tomorrow, we will take up the legislation that will implement a genuine "Save and Invest" in America program. Today, we fulfill the promise we made to our children and grandchildren to make this Government live within its means.

So this debate today is about priorities. While I will support this legislation in order to keep this important legislative process moving forward, I want the people of New Jersey to know of my priorities and the improvements I believe we need.

Mr. Speaker, there is much to be proud about in this bill. In addition to the real spending cuts that will move our budget into balance, this legislation contains a new $16-billion initiative on children's health.

We are right to target $16 billion to help insure children who are not insured. The only question remains over what will be done with this money to achieve the goal of providing health care to children.

I rise today to remind you not to forget children's mental health as well as their physical health. Both are components of children's health that cannot be ignored.

Any health initiative must have parity treatment of mental health coverage. Yesterday, in the other body, an amendment passed that would require that any plan that included mental health benefits would provide those benefits in a nondiscriminatory manner. This should remain a part of this budget package.

On the negative side, I recognize that we must have genuine entitlement reform. Medicare is going bankrupt and this bill restores its solvency for another 10 years while we debate a long-term solution to this pressing problem.

This legislation moves in that direction. But without question, this area of savings raises the most concern, and I must state my healthy skepticism about how much can, or should, be accomplished in the near-term.

I am deeply concerned about the Commerce Committee provision of this bill that cuts $16 billion in Federal Medicaid matching funds from the disproportionate share hospital [DSH] payments. This could amount to a 17-percent cut in New Jersey in a vitally important program that serves our neediest patients. I am encouraged by the statement made during debate on the rule on this legislation by the chairman of the Budget Committee [Mr. KASICH], that this formula is unfair to New Jersey and other States and should be revised. I am looking forward to reviewing those revisions when this House considers the conference report on this bill.

We in New Jersey are also deeply concerned about the reductions in Medicare payments for high Medicare hospitals—many of which can be found in New Jersey—and the prospective payment system freeze for next year. These two provisions present serious burdens for New Jersey health care providers and could significantly affect the quality of care in our State.

Mr. Speaker, there is very little long-term Medicare reform in this bill. I, for one, support the establishment of a Bi-Partisan Blue Ribbon Medicare Commission—modeled after the very successful Greenspan Commission on Social Security in the mid-1980's—to make recommendations for preserving and protecting this vital program, which the Congress should enact confident that there is not any hidden "political agenda" to the recommendations.

Mr. Speaker, I am very troubled that this reconciliation package includes provision that allows associations to offer health care plans—the provision added in the Education Committee by my friend from Illinois, Mr. FAWELL.

This section of the reconciliation package raises two concerns. The first concern is the fact that budget reconciliation is a totally inappropriate forum for bringing forth such expansive legislation without proper analysis and open discussion of such important concerns as fiduciary standards.

This provision does not offer sufficient protection against fraud and abuse and contains solvency standards that are substantially weaker than most State standards. This poses

the risk of significant losses for both plan participants and providers when plans fail.

We are being grossly irresponsible by including a major revision of ERISA law in this massive reconciliation bill.

My second concern is that this proposal does not help the health care situation in this country, but actually damages the integrity and health of group insurance coverage while reducing protections for patients.

We must carefully weigh the benefits of allowing associations the protections of being covered by national laws with the benefits of allowing State laws to determine consumer protections. While we do want to encourage companies to provide health care benefits to their employees and enlarge the prospects for small businesses to pool for insurance purposes, we must respect the right of each of the States to regulate the insurance industry within their boundaries. This proposal will drive us inextricably to national managed health insurance standards.

In other words, this legislation is significant, complex and perhaps one whose time has come but not in a reconciliation budget package.

This is no way to run a railroad or a legislative body. I will make every effort to ensure that this provision will be dropped in conference.

I am equally concerned that this legislation does not contain the strong budget enforcement mechanism introduced by Congressmen BARTON and MINGE. However, I will rely on the commitment from the Republican leadership that we will have a vote on this important legislation in July and that, if successful, this legislation will become part of the reconciliation process.

That process will not be without difficulty, but as we prepare to enact legislation that balances the Federal budget we should not kid ourselves into thinking that it will be easy to do. At the same time, we should acknowledge the terrible cost to our Nation if we do nothing.

Balancing the Federal budget is essential to protect our Nation's long-term financial health, and to ensure that the country our children and grandchildren inherit is as great as the one our parents gave us.

Mr. BLILEY. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. GREENWOOD].

Mr. GREENWOOD. Mr. Speaker, I thank the gentleman from Virginia [Mr. BLILEY] for yielding me the time.

Mr. Speaker, I rise with great enthusiasm to support this reconciliation package. This is why I came to Congress, to balance the budget. Today is a historic day for this Congress. But I want to specifically refer to the children's health care package.

The previous speaker somehow argued that children will be left uncovered by this bill as we in the Committee on Commerce have crafted it. To the contrary, what we have done is created the flexibility that the States need to provide Medicaid coverage, to provide direct health insurance purchases, and to provide direct services. And for those who criticize the provision of direct services, we must remember that if we did not provide children with direct health care services, those children would get no health care whatsoever.

We need to trust our Governors, we need to trust our State legislators and allow them to meet the health care needs of their children in the way that best suits their States' realities. I support this package enthusiastically and encourage my colleagues to do so, as well.

□ 1615

Mr. SPRATT. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise to oppose the Budget Reconciliation Spending Act.

While this bill contains fewer cuts than the drastic social spending reductions the Republicans have demanded in recent years, it still gives short shrift to America's seniors, workers, and immigrants.

Further, it violates several of the provisions of the budget agreement we passed only a few weeks ago.

First, the legislation misguidedly permits States to turn over Medicaid and Food Stamp Programs to private companies, many of which have demonstrated that they have not been able to efficiently administer other Government contracts.

An amendment in the Commerce Committee would have fixed this problem, but it was unwisely rejected by the Republican majority.

Second, the Medicare cuts are not as onerous as those of the 104th Congress. Still, the impact of reduced payments to providers will, in the end, be absorbed by needy seniors, resulting in poorer health care and diminished access to physicians.

I am further dismayed by the incorporation of the risky medical savings account proposal in the Medicare portion of the package.

This proposal will undermine the integrity of the Medicare Program by transferring critical funding away from the most needy beneficiaries to the healthiest, wealthiest senior citizens.

Third, I am pleased that the bill restores SSI and Medicaid to those legal immigrants who were receiving them when the welfare reform legislation was enacted last August.

Unfortunately, the budget agreement does not go far enough. Those immigrants who were here last August who only subsequently qualified for assistance, remain barred from receiving benefits. This is terribly unfair to those who had a reasonable expectation that the U.S. Government would assist them.

Finally, the budget reconciliation spending bill guts much of the minimum-wage increase which Congress passed last year, by exempting those in workfare jobs from the minimum-wage protection.

This is outrageous. Not only will this proposal take good jobs away from workers making as little as the minimum wage, but it will defeat the entire purpose behind workfare because program participants will not be able to earn a living wage in their jobs.

Mr. Speaker, once again, this bill represents an improvement over previous Republican budget cutting efforts. Unfortunately, it still cuts too much and helps too few.

I urge my colleagues to vote against the budget reconciliation spending bill.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Speaker, I thank the ranking member for yielding me this time.

Mr. Speaker, I really wanted to vote for this bill. In fact, I voted for the balanced budget agreement in the Committee on the Budget and voted for it on the floor with reservations. I knew there were things in there I had problems with. One of the things I had problems with, there was not enough food and nutrition. There are great needs in terms of hunger. It was not there. But in spite of that, it did have some good things in it.

Some of those good things were around children's health, around educational opportunities and tax provisions that are in there. On balance it was good to move for a balanced budget. But now we have an agreement that does not conform to all of those agreements. Although I knew I had some reservation, I do not ever expect that everything I want will be in the bill.

I can tell my colleagues, I am still looking forward to voting for a balanced budget, but I am unable to do that now. I want to tell my colleagues what I hope will be cleaned up after the conference. I hope indeed my colleagues find the compassion, or the reasonableness of at least giving people the work opportunity so they can have food stamps, so they are not thrown off the food stamp rolls. At least this rich country should be above that. I hope we will find in our hearts, and with all due respect and I know the gentleman from Florida [Mr. SHAW] is well-intending, I think when we are protecting welfare to work, age discrimination, sex discrimination generically and do not apply the same labor standards that are codified already in law, we are supposing to create a new set of protections for this group of people. It would be so much easier if we would just simply say the law that is already on the books and we would apply it to these people just as we apply it to everyone else. I think that is a gross error, and I think we have made a tragic mistake to create new provisions to speak to the same issues.

For those reasons, Mr. Speaker, I cannot support this bill as it is. I hope we will come back from the conference with an improved bill.

Mr. BLILEY. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. NORWOOD], a member of the committee.

Mr. NORWOOD. Mr. Speaker, I am very pleased to support this bill for many reasons, but one of which is that

the Committee on Commerce has done a marvelous job in trying to protect patients in the health care field as we move more and more from fee-for-service health care to managed care. I am extremely grateful to this committee for doing the right things for Medicare and Medicaid, those things that we want to do indeed for all the people of this country, but at this point we did get things into Medicare and Medicaid.

For example, for the first time we are actually going to allow the health care giver, the physician and the patient, to determine if they need a specialist, or the physician and the patient will actually determine if they need to be in the hospital, not a health care bureaucrat or an accountant.

With that, I thank the gentleman from Florida [Mr. BILIRAKIS], the chairman. I think we have a great bill, and I urge all Members to support it.

Mr. SPRATT. Mr. Speaker, I believe the provision the gentleman referred to was dropped in the manager's amendment.

Mr. Speaker, I yield 1½ minutes to the gentleman from Illinois [Mr. EVANS].

Mr. EVANS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, H.R. 2015 would kill the efforts of the Department of Veterans Affairs from obtaining the resources it needs to meet the health care needs of our Nation's veterans.

Earlier this year the administration proposed that appropriations for VA health care remain constant at $17 billion a year for 5 years. Clearly the ability of the VA to provide needed health care service to the Nation's veterans could be seriously jeopardized if the resources required to provide that care were fixed, while the costs of providing care increased.

To offset the possible dire consequences of an appropriation freeze, the administration also proposed that VA retain funds it collects from third party payers, insurance companies for example, for some treatment provided by VA to certain veterans. The VA is attempting to collect funds for third party payments, but today those recovered funds are simply deposited by the VA into the General Treasury.

On a bipartisan basis the House Committee on Veterans' Affairs rejected this proposal. Our committee believed it jeopardized VA's ability to meet veterans' health care needs and we said so. We told the Committee on the Budget that Congress should continue to fully fund health care through the appropriations process. The Committee on the Budget, however, rejected our committee's views and our recommendations.

Under the Committee on the Budget's plan, appropriations for VA health care would not increase for 5 years and third party collections would be retained by the VA to provide veterans' health care. But now under H.R. 2015, the ability of the VA to provide veterans' health care has been further undermined, again ignoring the service provisions in the bill. This bill now makes VA's third party collections subject to appropriations.

Mr. BLILEY. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. BILBRAY], a member of the committee.

Mr. BILBRAY. Mr. Speaker, this afternoon we are hearing much talk about what is not in this bill and why they are finding excuses to vote against this bill. Let me give Members a major reason to vote for this bill for people who say they want to protect the most needy, the most disadvantaged in our society.

Mr. Speaker, for decades this Federal Government has mandated that we provide certain services across this country, and over the last few years we have mandated that poor working-class hospitals provide free emergency health care to illegal aliens. At the same time this Congress and other Congresses have mandated that, they have walked away from the responsibility to pay the bill for the emergency health care to illegal aliens. This bill, Mr. Speaker, has in it a fund set aside to finally reimburse those working-class hospitals that have been denied the reimbursement that they have deserved for so long.

I hope my colleagues who claim to represent the poor, the needy, the disadvantaged, the people that are not getting their fair share of health care and coverage, will stand up and say at least, look, this bill does include something that has been denied for much too long. Support this bill and finally start paying for the health care of the illegal aliens that we mandate to be serviced. Quit being a deadbeat dad.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK of Hawaii. I thank the ranking member for yielding me this time.

Mr. Speaker, I rise in opposition to this bill. This is not a reconciliation bill. It contains many things which are extremely irrelevant to the budget process. Many people have said, "Let's not try to meddle with a welfare reform bill that was only enacted last August. Let's see if it's going to work."

Yet here we are today in a budget reconciliation bill that severely cuts back on what I believe was intended when we passed the Welfare Reform Act. We said welfare to work, because work was an ethic we wanted to encourage. Everybody who goes to work gets paid. Yet here in the Budget Reconciliation Act, we have a work requirement where there is no additional compensation. We are going to take their cash welfare check, we are going to take their food stamps and we are going to add it together and say divide that up to the minimum wage and that is the amount of workfare you must do for the Government or for a nonprofit agency, without one penny of additional money.

Where is the work incentive that we are trying to build in the people that we were so-called trying to change their mode of life, getting them to go out and understanding the joy of earning additional money. That is absolutely taken away from them. The protections of being a worker are denied. Many of the protections, such as occupational health and safety, sex discrimination, all the things that ordinary workers would have. Family medical leave. These people who are on welfare that are being forced to go to work, forced to take workfare with no additional compensation will not have the protections of employees. They are not workers. They are second-class citizens in America.

We apologized for slavery over 100 years ago. Who is going to stand up and apologize for the slavery that is incorporated in this budget reconciliation bill? This is really degrading. I stood in defense of some of the rhetoric we heard in this Chamber about the importance of work. If my colleagues are going to require work, pay the people what they are entitled to receive.

Mr. Speaker, I rise to oppose the budget reconciliation bill because it establishes priorities that ignore the needs and interests of the most vulnerable of our constituents—the poor, the disabled, the elderly, the young, and, yes, our legal immigrants.

BENEFITS FOR LEGAL IMMIGRANTS

I am happy to note that the reconciliation bill exempts refugees and asylees from the SSI and Medicaid bans for 7 years.

Similarly, it is a positive sign that the House and Senate are making an attempt to restore SSI and Medicaid benefits to legal immigrants who were already on the rolls when the welfare law was enacted August 22, 1996.

However, this effort falls far short of restoring coverage in a meaningful way to elderly and disabled noncitizens.

Much has been said about how the reconciliation bill fails to live up to the bipartisan budget agreement. The budget agreement pledged to restore SSI and Medicaid for all legal immigrants ion the country before August 23, 1996, and who are now or later become disabled. Neither the House nor the Senate meet this test.

The House plan "grandfathered" in healthy, elderly noncitizens, but it fails to help legal immigrants who are healthy today but who later develop disabling conditions. It covers 75,000 fewer people than the bipartisan budget agreement.

The Senate budget plan was a little bit better, since it would let disabled noncitizens file for SSI through the end of this fiscal year. Nevertheless, it still covers 55,000 fewer people than the budget agreement does.

We could do more to help this population, but we are failing to do so. During its deliberations, the House Ways and means Committee

found it had $2.3 billion left over. My colleague Mr. BECERRA proposed a $2.4 billion plan to cover all elderly and disabled legal immigrants in the country, even those not already on the SSI rolls. The committee had a rare chance to do the right thing, but they let it slip away. Now it appears that they saved this money simply to cut the taxes of affluent Americans who need it the least.

It is reprehensible to cut taxes for the rich, while leaving disabled and elderly legal immigrants destitute. We should restore SSI and Medicaid benefits to all legal immigrants, not merely those who were covered by the bipartisan budget agreement.

HEALTHCARE

The budget contains numerous cuts and policy changes that will have a devastating impact on the health of our most vulnerable populations. Medicare and Medicaid will be cut by almost $130 billion over 5 years, while individual rights to justice and State authority over the health plans of small employers are eliminated.

The budget targets the most vulnerable populations cutting Medicare by $115 billion over the next 5 years. Those in support of this legislation, both in the majority and minority, must constantly reassure themselves that these cuts are acceptable because most of the cuts are achieved through "reduced payments to doctors and hospitals." Despite their reassurances, there can be no denying that payment reductions to doctors and hospitals are passed on to Medicare beneficiaries. Medicare beneficiaries pay in decreased access to care and decreased quality of care. Medicare beneficiaries are the losers.

How many Members of Congress have received letters from constituents protesting extended waits for doctor's appointments because their physician can only see a limited number of Medicare beneficiaries each month, or that their doctor has dropped Medicare patients entirely because they lose money every time they see a Medicare patient? Do we expect more physicians to accept Medicare patients when payments are cut even further? Do we expect hospitals to make more room for Medicare patients when we are reducing payments to hospitals? How do these cuts improve access to care? Have we improved quality of care by turning physicians and hospitals into assembly line health care drive through windows?

The budget includes a demonstration project to test how medical savings accounts would work in the Medicare Program. We just passed a medical savings account demonstration project last year and we don't even know if that will be a success. Why are we now implementing a MSA demonstration project in Medicare?

Medicare should be the last place we should be testing MSA's. Medical savings accounts will attract the healthiest and least expensive to cover while the more expensive high risk individuals remain in traditional health insurance programs. With a greater density of high risk individuals in the traditional health plans, costs will rise creating additional strain on Medicare. Savings produced by medical savings accounts will be meager compared to the higher costs to cover individuals in traditional plans.

Meanwhile, Medicaid will be cut by $13.6 billion. These cuts will predominantly come from reductions in payments to hospitals that serve a disproportionate share of low income patients. Cuts to disproportionate share hospitals [DSH] will place enormous burdens on rural hospitals and hospitals in low-income areas. Why are we cutting from these areas when these are the populations that need access to care the most. Many facilities in low-income or rural areas will not be able to survive.

Also concerning Medicaid, the budget repeals the Boren amendment which requires State Medicaid Programs to pay a reasonable and adequate rate for facilities and services provided by hospitals and nursing homes. Once again, do we expect quality of care and access to care to improve by permitting State Medicaid Programs to shortchange hospitals and nursing homes? Beneficiaries will feel the cuts and beneficiaries will end up paying.

The budget bill attacks the rights of individuals in medical malpractice cases and attacks the authority of States to regulate the health plans of small employers.

This budget weakens individual protections from medical malpractice by capping noneconomic damages in medical malpractice cases at $250,000. This is an egregious injustice. No matter how severe the harm caused by medical malpractice, noneconomic compensation is limited to $250,000. To place an arbitrary limitation on the damages an individual can receive due to medical malpractice is an atrocity. This cap abolishes the rights from every American to receive just compensation from medical malpractice.

To top this off, this legislation puts a 2-year statute of limitation on medical liability cases, beginning on the date the injury occurred or should have reasonably been discovered, and no legal action could begin more than 5 years after the date of the alleged injury. Absolutely absurd.

Another disturbing provision included in the budget is the Expansion of Portability and Health Insurance Coverage [EPHIC] Act of 1997, which contrary to a popular theme that has dominated the direction of this Congress, removes State authority to regulate the health insurance plans of small employers and transfers regulatory authority to the Federal Government without adequate provisions and preparations to manage the additional responsibility. States have spent years crafting laws and regulations to govern the health insurance plans of small employers. This bill will preempt many carefully devised State provisions and assign authority to an unprepared Federal Government. Not only is this irresponsible but it is also a blatant disregard for the years of work done by State governments.

The budget agreement abandons the budget agreement with the President on children's health care. The budget fails to guarantee coverage for children and gives excessively generous authority to States. We must set minimum standards and requirements to insure that this funding is used efficiently and effectively.

Additionally, the children's health State allocation formula is based on the State's share of uninsured children. States that have worked the hardest on covering their children and have had the most success will get the least amount of funding while States that have done little will get a windfall. This allocation system rewards States that have done nothing while penalizing States that have made an extra effort to cover children.

Moreover, this legislation permanently enacts the Hyde amendment which in effect denies poor women their constitutional right to reproductive choice, and could jeopardize their access to health services.

This budget exemplifies how this Congress's priorities have deviated from fundamental principles and is a dishonorable failure of our responsibility to care for America's elderly and disabled.

WELFARE

Furthermore, Mr. Speaker, the most egregious provisions of this bill will allow States to place welfare recipients in indentured servitude by enacting a separate set of rules for welfare recipients working in public and nonprofit organizations.

These provisions were not part of the original budget agreement and they are not necessary to reach the budget savings called for in the budget resolution. It is simply another attempt to cast scorn on the poor of this country and denigrate their status in our society.

Under the bill before us today, welfare recipients who are forced to go to work in public service agencies and nonprofit organizations to work off their welfare benefits will not be treated as employees. The compensation they receive will not be considered wages or salary and they will not be afforded the same rights and protections under labor laws as other employees in this Nation. Furthermore, States will be able to count the combined TANF, formerly AFDC, and food stamps benefits in calculating whether welfare workers in workfare or community service jobs are receiving minimum wage.

What happened to equal work for equal pay, or does that just apply to the well-off in the Nation—and not the poor?

I am frankly astounded that the majority has advocated these changes to the welfare law because they are directly contrary to the emphasis of last year's bill, which was to empower welfare recipients with jobs, to promote the value of work, and to promote self-sufficiency through experiencing the dignity of work.

How can one experience the dignity of work if they are treated differently than every other employee, not paid a wage, not protected by labor laws, and relegated to a position most vulnerable to discrimination and abuse?

Under this legislation, welfare recipients, virtually all of whom are women, will not be protected against sexual harassment and sex discrimination as in title VII of the Civil Rights Act. They will not be protected under OSHA, the Fair Labor Standards Act, nor the Family and Medical Leave Act.

In short, welfare workers will be denied the most basic rights afforded every other person in the workplace. This is shameful, and a tragic step backward to a time when indentured servitude and slavery was condoned in this country.

Mr. BLILEY. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. UPTON], a member of the committee.

Mr. UPTON. Mr. Speaker, I would like to talk a little bit about why Congress should retain the States' option to provide services as well as insurance coverage with their child health assistance program grants.

The children's health provisions of this budget agreement state that "the resources will be used in the most cost-effective manner to expand coverage and services for low-income and uninsured children with a goal of up to 5 million currently uninsured children being served."

Simply having a Medicaid card or private insurance plan is no guarantee of access to health care services in the many medically underserved rural and inner-city areas of this country. Community health centers are located in medically underserved rural and urban areas and may be the only source of care in many of those areas. These centers serve one out of every six low-income American children and one out of every seven uninsured children in the United States. In addition to providing health care services, community health centers are experienced in dealing with barriers to health care for children, such as transportation and language and cultural differences.

Mr. BLILEY. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana [Mr. TAUZIN], chairman of the Subcommittee on Telecommunications, Trade, and Consumer Protection.

Mr. TAUZIN. Mr. Speaker, let me first tell my colleagues that the Committee on Commerce had an awesome task. Assigned to us in the budget agreement was $2.2 trillion of budget savings over the period of time that this budget agreement is to operate. That was a huge undertaking. I think the gentleman has correctly pointed with pride to the work of every member of our committee in developing for the Committee on Rules in this package with the help of the Committee on the Budget a package of reforms that does in fact honorably meet those goals.

On the Subcommittee on Telecommunications, Trade, and Consumer Protection, we had a particularly arduous task of writing a section that would meet the Committee on the Budget's requirements of spectrum auctions and revenues to the government over the next 5 years in the face of some very disturbing recent trends, the most recent of which was an auction in April that yielded only one-half of 1 percent of the amount of money that the Committee on the Budget had earlier predicted that auction would yield for the Treasury.

Let me at first compliment the gentleman from Ohio [Mr. KASICH] and the members of the Committee on the Budget for working so carefully with the members of the Subcommittee on Telecommunications, Trade, and Consumer Protection in trying to resolve that arduous task and those numbers. What has been accomplished in the course of the last few days through negotiations with the Committee on Rules are provisions to help ensure that the next round of spectrum auctions are conducted much more responsibly.

Number one, it is clear from the language that we are going to vote on today that spectrum auctions of additional spectrum made available over the next 5 years for public use will be conducted with several new directions: No. 1, those spectrum auctions will be conducted after a time has been allowed for the current round of spectrum sales to clear the financial markets. As my colleagues know in the last successful auction, whereas we received bids of $23 billion, only about $11 billion was actually paid in because of difficulties in getting that spectrum out.

The new bill provides, in effect, that the new auctions will give enough time for bidders to know what is coming down the pike and will give enough time for the market to clear. The new provisions require in fact the FCC to examine new computer models for auctioning, such as the ones carried out in California where block auctioning is actually attempted to yield higher results for the Treasury. In short, those improvements have been added to the bill.

We have retained in this bill the committee's mark that specifies that the FCC can permit the continued analog broadcast as long as more than 5 percent of a community have not yet switched over to digital as this digital transformation occurs.

□ 1630

We have retained the committee language that there must be minimum bids in these auctions. No more should we have bids on auction of a dollar at the marketplace.

In short this is a good package. I urge its adoption and commend the committee for its fine work.

Mr. PALLONE. Mr. Speaker, based on what was said before, it appears that the Republicans have significantly more time, so I reserve the balance of my time.

Mr. SHAYS. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Speaker, my vote will be in favor of passage of this bill, and H.R. 2037, the budget enforcement provisions, have been made part of this bill that will help us make sure that we enforce the provisions of our intent to balance the budget and make these spending cuts.

CONGRESSIONAL BUDGET & IMPOUNDMENT CONTROL ACT OF 1974

Permanently extends the requirement that budget resolutions cover a five-year period.

Similarly, extends indefinitely the enforcement of the five-year spending and revenue levels set forth in budget resolutions through points of order.

Simplifies and updates points of order that are used to enforce the budget resolution's spending and revenue levels.

Provides for adjustments in the budget resolution levels for legislation appropriating funds for designated emergencies, arrearages and the International Monetary Fund.

Eliminates the need to waive the Budget Act for a reported bill that violates the Act but is cured by a self-executing rule. In such cases, the point of order no longer lies against the bill.

AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985

Adjusts and extends statutory discretionary spending limits, which are enforced through sequestration, through fiscal year 2002.

Provides for adjustments in the discretionary spending limits for appropriations for emergencies, arrearages, and the International Monetary Fund.

Extends pay-as-you-go requirements, which provide that entitlement and tax legislation must be fully offset, through fiscal year 2002.

Modifies baseline that is used to "score" legislation so that committees get credit for eliminating entitlement programs.

Eliminates accrued paygo balance and savings from reconciliation to ensure that all savings are used for deficit reduction.

Mr. SHAYS. Mr. Speaker, I yield 2½ minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Speaker, I rise in support of the balanced budget bill and in particular the provision of the bill that will expand affordable health insurance to millions of workers, their spouses and their children. By including the Expanded Portability and Health Insurance Coverage Act, known as EPHIC, in this reconciliation, we advance bipartisan legislation which will make insurance available to millions of uninsured Americans.

The EPHIC legislation is consistent with the budget agreement's goal of expanding coverage to uninsured children.

The problem of the uninsured, both children and adults, is predominantly a problem of small businesses lacking affordable health coverage. Over 80 percent of the 40 million uninsured Americans live in families headed by a worker, most often in a small business. And over 80 percent of uninsured children are in a family headed by a worker, again, usually in a small business.

EPHIC addresses this problem by giving franchise networks, union plans, and bona fide trade, business and professional associations the ability to form group health plans. EPHIC gives retailers, wholesalers, printers, agricultural workers, grocers, churches, organizations such as the chambers of commerce and NFIB, the National Federation of Independent Business, the economies of scale and affordable coverage that large businesses have had for 23 years under the Federal ERISA

law. In other words, finally the little guys will have what the big guys have had for decades, and I refer to the economies of scale to be able to have affordable health insurance for their employees.

In hearings before my subcommittee, witnesses estimated that small businesses could save between 30 and 60 percent in overhead costs and that up to one-half of the 40 million uninsured Americans would find affordable coverage in the private market under EPHIC.

Mr. Speaker, this tremendous expansion of coverage can be realized without spending one single tax dollar, without any government subsidies or any government mandates.

EPHIC is supported by nearly 100 organizations representing small businesses, large businesses, the self-employed, churches, hospitals, medical groups, agricultural, and rural interests and insurance companies. The bill currently has 152 cosponsors, including 23 Democrats.

Mr. Speaker, I think this is a sound idea whose time has come.

Mr. PALLONE. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, the best way for me to illustrate the flaws that are contained in this bill is to focus on the harm it does to our Nation's children. Beginning with children's health care, a majority of this House, myself included, voted for the balanced budget resolution which promised $16 billion to cover five million of the 10 million uninsured children in America today. But even though most of us wanted to cover all 10 million, we felt that acting in good faith we could get to 5 million now and then address the remaining later on. Well, guess what, Mr. Speaker, this bill does not even cover 1 million children. According to the Congressional Budget Office, the Republican leadership's proposal would provide coverage for about half a million children. The CBO assumes that much of the 16 billion will be passed on to hospitals and other providers who get shafted under this plan and basically not to purchase health insurance for children.

The Republican leadership, in effect, which is purporting to be the party of fiscal conservatism, takes $16 billion and, in my opinion, throws it away. The Democrats offered several alternatives to this impotent policy. First we sought to plug up the so-called direct services loophole that lets a State spend its money on purposes other than insuring kids. The Republicans defeated that amendment in the Committee on Commerce. Then Democrats proposed to expand Medicaid and outreach to cover more kids with an existing health insurance program that already works. We know that Medicaid works, but the Republicans said no to that too in the Committee on Commerce.

And finally we put forward a proposal by the Democratic Caucus Health Care Task Force, a comprehensive approach to expand Medicaid, give States matching grants to cover kids above the income levels that qualify for Medicaid and require private insurance companies to provide kids only policies at reasonable costs, and the Republicans shot that down too in the Committee on Commerce and again in the Committee on Rules when we proposed it the other day.

We are considering a bill today which violates the balanced budget agreement and which I supported as did most of my colleagues here. The bill we are considering today takes health care money away from children, it does not expand health care, it takes it away from children. This is not what we intended when we supported the balanced budget agreement, so we will not support this bill today. It is just another Republican attempt to cost shift, and unfortunately, Mr. Speaker, the cost shift is right on the backs of our Nation's children.

Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY of Massachusetts. First of all, Mr. Speaker, I appreciate the gentleman from New Jersey yielding this time to me. I think we all ought to recognize the fine work that the gentleman from New Jersey [Mr. PALLONE] and others in the caucus have done in trying to bring attention to the fact that we have so many children in this country who still do not have basic health insurance.

Most people think that health insurance is provided as a matter of right to kids in America. The truth of the matter is that amongst the very poor children, that is true under the Medicaid Program. But again, working families, the children of taxicab drivers, the children of waiters and waitresses, working families simply do not have health insurance; and that is where this bill, I think, has had some dramatic failures.

I wanted to point out to my friend from New Jersey, Mr. PALLONE, that there is an additional problem with this language that is contained in this bill. The way the actual funding for the program would operate would allow the money to go to States where there are larger numbers of uninsured children. As a result, States like Massachusetts and Pennsylvania, States like Florida and Tennessee would be dramatically hurt under this proposal because in those States they have already taken action to insure large numbers of uninsured children. As a result, where States have chosen to step in and take responsibility for those kids, those States would actually be penalized under the formula that was passed by our Republican colleagues.

So I think that it is important that we have an opportunity to change this, and I was surprised that the Committee on Rules, particularly as the chairman comes from New York, where they have a significant program, did not allow us to offer an amendment to change that funding formula.

Mr. PALLONE. Mr. Speaker, I appreciate the comments of the gentleman from Massachusetts [Mr. KENNEDY].

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. Mr. Speaker, I appreciate too, as the gentleman from Massachusetts [Mr. KENNEDY] said, the work the gentleman from New Jersey [Mr. PALLONE] has done on children's health. I am concerned in what has happened with Republican efforts to, quote unquote, cover some of these 10 million children that do not now have health insurance. Pretty clearly, the Democratic idea of using Medicaid, a program that is in place where administrative costs are low, a program that has a couple of decades of working effectively and efficiently to insure poor and near-poor children; it is in place, it works, it makes sense to do that.

I am concerned with the Republican plan for a bunch of reasons:

First, there was talk earlier of using all kinds of tax schemes. I am concerned about the tax schemes that the Republicans tried. Now I am concerned about this whole block grant effort that the Republicans want to use to just turn money over to the States, when it is clear from all kinds of analyses, whether it is the legislative budget office or other analyses, that show that in fact this money likely will not be there to insure children. It is more likely to be frittered away by Governors, and this is sort of something the Governors want because they want to play with this money.

We should have learned this in the last 5 years of what happened to something called disproportionate share, where all kinds of money went to the States that was not used for health care. Some cases it was used for things like highways, and we want to make sure this money, $16 billion goes to insure millions, not a few hundred thousand, but millions of children that now do not have health insurance directly through a Medicaid program, not frittered away so the Governors have some kind of slush fund to plug holes in their budgets. It simply does not make sense that way.

The SPEAKER pro tempore. The time of the gentleman from New Jersey [Mr. PALLONE] has expired.

Mr. SHAYS. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware [Mr. CASTLE], the former Governor of Delaware.

Mr. CASTLE. Mr. Speaker, I thank the gentleman for yielding this time to me, and I rise in strongest support possible of H.R. 2015, the Balanced Budget Act of 1997.

This budget deal explicitly outlines the parameters by which this Congress will balance the Federal budget and reduce the deficit to zero by the year 2002. This is a truly historic achievement which demonstrates that, when we work in a bipartisan fashion, we can achieve the mission of fiscal restraint our constituents elected us to achieve. Our constituents have become increasingly cynical about government, and agreement will help restore confidence in the institutions and processes of government. It represents a triumph of the political system and a fulfillment of the voters' 1996 command to Congress to help solve our budget problems in a bipartisan fashion.

Passing the first balanced budget since man walked on the moon is a solid and constructive beginning. We need to look no further than the States which started this process about 25 years ago and in that time has started to balance their budgets, improve their economies and receive ratings of excellent or very good for all their budgetary restraints and have done a superior job. Our constituents will benefit from this.

It has been said by Alan Greenspan that interest rates may lower by 2 percent, and that is tremendous when we look at investment returns, lowering credit card and car loan rates, reducing mortgage payments, lowering consumer products' cost and creating more jobs and of course producing a better environment in which to provide tax relief.

With this 5-year budget we begin a long-distance marathon which will require us to remain steadfast in our desire to ensure that this budget agreement translates into a budget that delivers on its promise of less spending, a smaller government and tax relief for all Americans even after the year 2002. While I am concerned that stronger budget enforcement mechanisms were not included to ensure the deficit revenue and spending targets will be met, I am pleased that the Republican leadership has agreed to address this issue in July. This is a solid step forward and will help show the American people that now more than ever the Congress is engaged and committed to achieving a balanced budget.

Mr. PALLONE. Mr. Speaker, I reserve the balance of my time.

Mr. SHAYS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Virginia [Mr. MORAN].

Mr. MORAN of Virginia. Mr. Speaker, I actually rise in support of this budget agreement, but I particularly want to emphasize one aspect of it that has not gotten sufficient attention. All of us are concerned about the fact that there are about 41 million people who are uninsured in this country who cannot get the health care that they need. Now 80 percent of them are working, they are working; that is the main point, and they are working for small employers. But we cannot figure a way to get affordable, accessible health insurance to them.

The Fawell bill, which is included in the reconciliation bill, is the way to do that. It enables them to pool their employees so that they have leverage with insurance companies and they can purchase insurance for the first time for a large part of these 41 million uninsured people. Most of them are children.

□ 1645

So I would hope that we would do this. It helps labor unions, it helps small businesses, it helps trade associations, it helps the American people who desperately need affordable health insurance.

Let me say, Mr. Speaker, I do not disagree with almost all of the objections that have been raised. I do object to the conclusion. I do think we ought to vote for this budget agreement. It moves us forward. I think we have made a major step in moving from an annual bookkeeping exercise to one where we debate real national priorities. We are going to have an opportunity to improve it on the Senate side, in the conference agreement, and certainly the President is going to insist that many of the Democrats' most serious objections are taken care of in the conference agreement.

I think that we ought to vote for this budget agreement, for this reconciliation package, and we certainly need to include the Fawell amendment in it if we want to really address people who need help with their affordable health insurance.

Mr. SHAYS. Mr. Speaker, I yield 2½ minutes to the gentleman from Missouri [Mr. TALENT], a member of the Committee on Education and the Workforce, but also the chairman of the Committee on Small Business.

Mr. TALENT. Mr. Speaker, I thank the gentleman for yielding me this time. I want to congratulate him on his outstanding work. I look forward to supporting this afternoon a historic bill that will provide a balanced budget for the American people, and then tomorrow, to support a bill that will provide tax relief within that framework. It is a historic and outstanding and bipartisan achievement and all of those behind it deserve congratulations.

I want to talk just a moment about a very important part of this bill. It is a part of the bill designed to preserve the integrity of the works provisions in last year's welfare bill, a bill that is working around the country. For the first time, welfare caseloads around the country are dropping. People are substituting paychecks for welfare checks, and that is so good for them and so good for their children and so good for their communities, but there is a danger here.

There are some folks in this body and some at the other end of Pennsylvania Avenue who want to adopt a provision that would make the work provisions unworkable, unaffordable to the States and unworkable in terms of their purpose.

Let me describe it with an illustration. Right now the work provisions require that certain parts of the able-bodied people on welfare have to go to work and if they cannot get a job in the private sector, they have to provide community service, and that is good. Let us suppose that they are helping out as a clerk, as a part-time clerk in some Government office 20 hours a week.

What these people are talking about doing would require that these individuals be paid comparable wages with people who are clerks in the area, maybe, $7, $8, $9 an hour. Plus they continue to get Medicaid, subsidized housing, food stamps, and they get all the other web of protections that we provide employees in this country: Unemployment compensation, workers' compensation, Family and Medical Leave Act, thus increasing the cost of this program, making it unaffordable to the States and turning it into a program that sucks people onto welfare. Because how unfair would that be to the individual who does not go on welfare and just gets a job as a clerk? All they have is their pay and the protections that we give employees. They do not get Medicaid or subsidized housing or food stamps.

The work provisions are designed to create a bridge from welfare to work, and by making it unaffordable we would knock down that bridge so that people would never get from welfare to employment. It was not intended in last year's bill, we should not do it now, it is the wrong thing to do.

What we provide in our bill is that individuals have to be paid the minimum wage; the FDC and their food stamps have to constitute the minimum wage. We provide them protection from discrimination, from unhealthy or unsafe conditions, and they can continue to enjoy their other welfare benefits. That is the way to go. Keep the workfare provision strong. Support this bill.

Mr. SHAYS. Mr. Speaker, I yield myself 30 seconds to point out to the gentlewoman from Hawaii who spoke earlier that in the State of Hawaii, the benefit that a welfare recipient receives is $13.65 an hour just for the cash payment and the food stamps. That is what they are required to pay off in a 20-hour work period. In the State of Connecticut, it is $10 an hour.

The kindest thing we can do for someone is to move them off welfare and into work, and this is what our legislation does.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield 1½ minutes to the gentleman from Arkansas [Mr. BERRY], one of my colleagues on the Democratic Health Care Task Force which put together a very comprehensive program to reach and cover the 10 million children that are uninsured.

Mr. BERRY. Mr. Speaker, I rise today in reluctant opposition to this budget package. I am a strong believer in the need to balance the Federal budget. I cosponsored legislation that would require a constitutional amendment to balance the budget.

Three weeks ago I supported the spending goals laid out in the budget resolution. Today, however, I cannot support the policies that have been crafted to stand behind those numbers.

One of the most troubling policies contained in this budget is the children's health reform package. Fiscally irresponsible, $16 billion, no strings attached, giveaway of the taxpayers' dollars. I am a strong supporter of ensuring that every child in America has access to affordable health care. However, this proposal does nothing to ensure that the $16 billion will go to those who need it most, the children. In fact, the Congressional Budget Office estimates that the $16 billion we are spending will cover only 520,000 children.

Let us do the math. Mr. Speaker, 520,000 children, $16 billion, $31,000 per child, $6,000 per child per year. Surely our hardworking taxpayers deserve a more cost-effective approach than this. Our approach allows States to expand the Medicaid Program, outreach to the children, and do a better job with the $16 billion. Our plan is more prudent. I urge my colleagues to support this alternative.

Mr. PALLONE. Mr. Speaker, I yield 1 minute to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Speaker, what I would like to do is just sort of explain in simple terms what this Democratic alternative is. What we felt was that we needed a private-public partnership, that Government cannot do everything, private industry cannot do everything, but together we can attempt to reach those 10 million children. It is a disgrace, it is a disgrace that 10 million children have no health insurance.

So our package says, reach out to the kids who are eligible for Medicaid, bring them in. Provide a plan that will increase the Medicaid opportunities, and then do some insurance reform, simple insurance reform that will say, insurance companies, you have to provide a kids-only policy, one that will not be denied to children. So if a family has no health insurance, maybe they are not eligible for Medicaid, but they cannot afford $400, $500 a month, there will be a policy available for them, a kids-only policy. Can it be done? Absolutely. In the State of Oregon we have a kids-only policy, $35 a month. I ask my colleagues to support this alternative because it reaches out to all the children.

Mr. SHAYS. Mr. Speaker, I yield 1½ minutes to the gentleman from Georgia [Mr. KINGSTON].

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, 1969: The Vietnam war, Woodstock, Neil Armstrong was on the Moon, Jimi Hendrix experience, Mod Squad, Walt Disney was not even controversial yet, Richard Nixon was President and the budget was balanced, but that was the last time.

Today our national debt is over $5 trillion. That is an inconceivable amount of money.

Let me illustrate. One million seconds equals 12 days. One billion seconds equals 32 years. One trillion seconds equals 32,000 years. This is not acceptable to America's children.

If we balance the budget through this bill, we will lower interest rates. Lowering interest rates 2 percent on a $75,000 home mortgage over 30 years will mean middle-class taxpayers pay $37,000 less on their home mortgage. If we balance the budget with this bill, we can create more jobs because we will have more economic growth, more opportunities for Americans, minorities, and middle-class citizens.

Finally, we can have lower taxes, because the burden of a huge Federal debt and interest on that debt will not be as great.

Mr. Speaker, this bill is good for the middle class, it is good for the children, it is good for the United States of America, and I urge my colleagues to join me in supporting the balanced budget.

Mr. SHAYS. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. BOEHNER], our conference chairman.

Mr. BOEHNER. Mr. Speaker, the House is voting today on a plan to make the government smaller, less costly, and more responsible and accountable to the people that it serves. Members from both sides of the aisle have crafted it, and appropriately so. There is no single issue that should unite us more than eliminating the Federal budget deficit, because when the Government fails to balance its budget, it is not just being irresponsible, it is restricting the freedom of ordinary Americans to realize the American dream.

More than perhaps any other quality, Americans cherish the notion of freedom. But Americans recognize that with freedom comes responsibility, a responsibility to live within our means, to realize that our actions today will impact the lives of our children tomorrow. They live within those rules and they expect no less from their Government.

The plan we are voting on today is evidence that Washington is at last beginning to take its responsibility seriously. It reduces the growth of Government spending by nearly $1 trillion over the next 10 years, reversing the legacy of bankruptcy that we are handing off to our children. It saves Medicare from bankruptcy, ensuring that seniors of today, and tomorrow, will continue to have this vital program well into the next century. It allows tax relief for families, and individuals, at every stage of their life so they will have the freedom to save and plan for their future.

Mr. Speaker, the American people are the real winners in this plan. By taking this next step toward balancing the budget for the first time in a generation, we take another giant leap toward restoring their freedom to chase the American dream. It is our responsibility to follow through on our promises that we have made to them.

Mr. SHAYS. Mr. Speaker, I yield 1 minute to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I would say that I do believe that we should pass this program. Balancing the Federal budget is absolutely essential to protect the Nation's short-term, and long-term financial health and certainly to ensure our children and grandchildren a greater tomorrow.

I want to especially thank the chairman of the committee for his work that he is going to do, specifically mentioning the needs of New Jersey with respect to the Medicaid needs and the DSH formula.

I do want to say that I have a question and a reservation with respect to the Small Business Association ERISA reforms of the bill. I will be moving to correct those reforms. In my opinion, they do not belong in this bill, they really should be separated out, and I would hope that we could work on that in conference. But without reservation, we must support this as an ongoing program and assure that we are keeping our promise to the American people.

Mr. PALLONE. Mr. Speaker, I yield 1¼ minutes to the gentlewoman from California [Ms. ESHOO].

□ 1700

Ms. ESHOO. Mr. Speaker, as the American people listen to us this afternoon as we engage in this great and important debate about our Nation's budget, it really is a statement of our values. The President came to the Congress, and in his State of the Union Message delivered part of the message, there were 10 million uninsured children relative to health care in our country.

The parties came together and said, this is a priority. We then went to write in, to fill in the blank, of how we would plan to insure the 10 million uninsured children in our country. There

is only one plan that has been advanced that actually works and reaches out to the majority of the children in our country. It has not created a new entitlement, there are no unfunded mandates, but neither is it a giveaway to our Nation's Governors. It puts children first by building on the public system; by saying to the insurance companies, it says to the insurance companies that you can indeed offer children-only insurance policies. It rewards States that are doing even more for children, and it is the only plan, according to the CBO. The CBO says that the Republican plan will cover only 520,000. That is a deficit for our Nation.

I urge that we support this plan. I will not support the budget plan contingent upon this.

Mr. PALLONE. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I will put a longer statement in the RECORD on the health aspects of this budget reconciliation bill, but I do want to point out that we are missing an opportunity to cover children as fully as we might in the most certain and effective way we can.

What we have in the bill is a good start. What we have in the budget is $16 billion, but it would be most effective if we were certain that the money would be spent to buy guaranteed coverage with the benefits that children need.

We have a model for this and it works. It is called Medicaid. We ought to help States do a better job with that program, and with the block grant money, we ought to be sure it is spent on what we intend, to buy health insurance coverage for uninsured children. It is not supposed to be a pot of money for States to refinance their own health services facilities. It is not supposed to be a replacement for DSH, it is supposed to help kids.

We can do better. In Medicaid and Medicare, while there are some positive steps, it seems to me on balance I cannot endorse this legislation.

Mr. Speaker, we are missing an opportunity today to assure that we are extending coverage to millions of uninsured children in the most certain and effective way we can.

We have $16 billion to spend here. This is not enough to cover all the uninsured children, but it is a good start.

And it will be most effective if we are certain that the money is being spent to buy guaranteed coverage, with the benefits that children need.

We've got a model for this—and it works. It's called Medicaid. We ought to help States do a better job with that program.

And with the block grant money, we ought to be sure it's spent on what we intend: to buy health insurance coverage for uninsured children. It's not supposed to be a pot of funds for States to refinance their own health service facilities. It's not supposed to be a replacement for DSH. It's supposed to help kids.

We can do better.

And the changes this bill makes in Medicaid and Medicare are not acceptable.

I recognize that these provisions are dramatically improved from those brought before this House in the last Congress. But being better than something that was totally unacceptable is not good enough.

I also recognize that there are some things in this bill, particularly related to Medicare, that are very positive. The preventive care benefits added to Medicare are long overdue, and will be very helpful to Medicare beneficiaries.

But on balance, I cannot endorse this legislation.

I cannot vote in support of the establishment of medical savings accounts [MSA's] in the Medicare Program. I know this is a demonstration—but it is a massive one. And it is a bad one.

MSA's cost Medicare money. They cost $2 billion. This is money that should be left in the Medicare Trust Fund or spent on benefits that all Medicare beneficiaries need. Instead, we're spending $2 billion to benefit people who are healthier and wealthier. They leave the many Medicare beneficiaries of moderate income, the ones whose health is more precarious, bearing the cost. That is wrong.

The changes in how managed care organizations will be paid by Medicare are also extreme. They will cause severe problems in higher cost urban areas. An initial attempt to rationalize payments became a free-for-all in which HMO's in urban areas, and the beneficiaries who are enrolled in them, are the losers.

And while this bill is better as a result of the amendment approved by rules in its protection for low-income Medicare beneficiaries, it does not meet the budget agreement terms of full payment of the Medicare premium for people below 150 percent of poverty.

Many of the changes this bill makes in Medicaid are also not ones I can support. Put simply, the cuts in the disproportionate share program are too large, and they are not designed to protect either the hospitals that serve very large populations of low-income people, or States which have spent all of their DSH moneys on these kinds of hospitals.

I cannot vote for a proposal that will result in a 20 percent cut of DSH dollars in my own State of California by 2002. I cannot endorse a policy that leaves large public hospitals, children's hospitals and hospitals with low-income utilization rates of 25 percent or 30 percent without first call on the funds available.

I cannot support legislation that undermines a poor woman's right to choose.

Finally, I look at the bill currently being debated by our colleagues in the Senate, and I see a number of provisions that will be brought into conference that would make this bill considerably worse.

It is not good enough now. It should be made better. It must be made better before it will have my support.

Mr. PALLONE. Mr. Speaker, I yield 30 seconds to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I acknowledge to the gentleman from Florida [Mr. SHAW], just as a correction, that I voted for the Deal amendment on welfare reform, which really worked, but I rise today because I do not want to pit children against my hospitals in Texas. I do not want to give a windfall to those Governors who may not focus on the need to insure the 10 million children who are uninsured.

We have a real health plan that does not pit hospitals against children. It is extremely valuable that we move forward on a budget reconciliation that protects workers, protects children, and provides for the hospitals in the State of Texas.

Mr. Speaker, I rise today to express my vehement opposition to H.R. 2015, the Budget Reconciliation Act. The problems with this bill are almost too numerous to list. However, I am compelled to report to the American people some of the most dismal aspects of this legislation.

First, H.R. 2015 contains a provision which reduces Medicaid spending by $11.4 billion, primarily by reducing payments to hospitals that serve a disproportionate share of low-income patients. The Disproportionate Share Hospital [DSH] program was created to ensure health care for the elderly, the indigent and the Nation's young people. It was specifically designed to reimburse hospitals that serve a disproportionate number of uninsured or indigent persons.

The DSH program is an integral part of the Medicaid Program in my home State of Texas. DSH is critical in providing quality health care to Texans who cannot otherwise afford it. A reduction in payments to these hospitals, therefore, discriminates against Texas because it singles out high-DSH States for cuts.

Without DSH funding, many of Texas' rural hospitals cannot continue to operate. Many counties will lose access to a medical center for hospital, outpatient and physician-based care. When those hospitals which serve the largest proportions of poor, low-income seniors and young persons suffer severe cuts in Federal funds, tens of thousands of low-income Americans will feel the pain.

Also included in this bill is a troubling provision commonly referred to as the Hyde amendment. This discriminatory provision would permanently prohibit the use of funds to pay for any abortion or to pay for any health plan that covers abortion, except if the life of the woman would be endangered, or if the pregnancy was the result of rape or incest. The inclusion of this language in the budget reconciliation bill would permanently write into Federal law a ban on abortion funding for low-income women and thus deny them access to vital reproductive health services that are available to others. This places disadvantaged and poor women in a substandard health environment which says to them that we do not care. This ban could force some women to resort to unsafe alternatives and others could suffer delays resulting in more risky procedures. One way or another, society will have to bear the costs of providing medical and support services for the eligible recipients under this block grant who are not able to terminate crisis pregnancies.

Let me now turn my attention to our Nation's immigrants. H.R. 2015 restores benefits to those low-income legal immigrants who were receiving SSI benefits when the welfare reform legislation was enacted last August and lost those benefits. However, this is nothing more than a Trojan Horse because the bill does not provide SSI benefits to legal immigrants who were in the country as of last August, were not receiving benefits in August, but who later became disabled despite the fact that this was part of the budget agreement. The President has threatened to veto the bill because of the absence of these benefits. We should not allow this Trojan Horse to leave the floor of the House.

Finally, the funding in H.R. 2015 for a children's health care initiative is turned into a block grant which even the Congressional Budget Office estimates may only cover 500,000 additional children—not the 5 million goal children agreed to in the budget negotiations. This seems to me to be obvious evidence that the concern some Republicans have expressed for the 10 million children without health care in our country, is little more than lip service. If their concern was deeply-felt we would find that H.R. 2015 provided a sincere effort to reach as many of these children as possible. It does not.

Mr. Speaker, I, like many of my colleagues would like nothing more than to vote for legislation that is a step toward bringing the national budget into balance and eliminating the deficit. I believe, however, that it is possible to do this in a manner that is balanced and compassionate. H.R. 2015 is neither and for this reason I oppose it and urge my colleagues to do the same.

Mr. SPRATT. Mr. Speaker, I yield the balance of my time to the gentleman from Texas [Mr. STENHOLM].

The SPEAKER pro tempore [Mr. DREIER]. The gentleman from Texas [Mr. STENHOLM] is recognized for 1¾ minutes.

Mr. STENHOLM. Mr. Speaker, I rise in support of this reconciliation bill. This bill takes another important step toward achieving a balanced budget. As one who believes that enactment of a fair and responsible plan to balance the budget by 2002 and beyond is critical to the future of our country, I believe it is extremely important that the House vote today to send this bill to conference and keep the process moving.

The efforts of President Clinton and Congress have resulted in 5 consecutive years of declining deficits and the lowest deficit since the Carter administration. The agreement builds on this tremendous achievement, and continues the glidepath to a balanced budget.

I am gratified that in numerous instances this reconciliation bill reflects the influence of Blue Dog budgets. The savings levels and the policies for Medicare and Medicaid and other programs are quite close to the savings levels and policies we predicted would comprise a reasonable compromise.

Anyone who has ever tried to lead knows there are a dozen attacks on why a plan is bad for every one suggestion of how it might be improved. I remain solidly in the camp of those who will work for a constructive compromise.

In that vein, I congratulate the President and his staff, the gentleman from Ohio [Mr. KASICH], the gentleman from South Carolina [Mr. SPRATT], and all of their staff for their hard labors which have brought us to this point. This has been a good-faith effort to work out the countless policy issues that need to be resolved for the budget agreement to achieve a savings in a fair and equitable manner.

I remain concerned about the impact of some of the policies of this reconciliation bill, and particularly I am very concerned about the impact that the policies for achieving the savings in the Medicaid Disproportionate Share Program will have a harmful effect on small rural and inner-city hospitals.

However, we need to remember that this bill has a long way to go before it is enacted into law. The administration will continue to work with Republicans and Democrats to work out these remaining problems. My primary concern is the lack of meaningful enforcement, but we will yet have another attempt at making that correction.

Mr. PALLONE. Mr. Speaker, I yield the balance of my time to the gentleman from California [Mr. FAZIO].

The SPEAKER pro tempore. The gentleman from California [Mr. FAZIO] is recognized for 1½ minutes.

Mr. FAZIO of California. Mr. Speaker, I am very disappointed at this point. I voted for the budget resolution, and I looked forward to the bipartisan cooperation we saw then put in place so we could vote today to send this bill to conference in the same bipartisan manner.

But the bill comes up short. We do not need a provision to take the Hyde language on abortion and make it permanent law. We need to pay more attention, for example, to the way in which we try to extend health care to the 10 million kids in our society that are not covered by insurance today.

First of all, we need an outreach program, because we know there are 3 million of them that are currently eligible for Medicaid who are not part of it. We need to expand the Medicaid program to try to broaden coverage throughout our States. On top of that, we need insurance reforms that will make it possible for parents to buy insurance for their children if the children do not get it where they work, or if the children are not covered.

Most of all, we need to work with the States to go after the kids of the working-poor families who are not covered, but simply, to make a grant to the States and tell them they can use it for almost any purpose is going to do nothing more than supplant existing State funds. We need to expand affordable insurance coverage and not simply go through a shell game with State and Federal dollars.

There are ways we can make this a better bill. I hope I can support it when it comes back from conference. I am optimistic I can. I want to give credit to the gentleman from Ohio [Mr. KASICH], my good friend, and the gentleman from South Carolina [Mr. SPRATT]. They have resolved a number of problems before they came here today. They have not gone as far as they must go.

The process should go forward, but those of us who remain unhappy with the progress we have made today need to keep before the President and this Congress the pressure to do a better job. I look forward to voting for a better job, and I hope it can be accomplished.

Mr. SHAYS. Mr. Speaker, I yield the balance of my time to the chairman, the gentleman from Ohio, [Mr. JOHN KASICH], the gentleman who began this long march toward a balanced budget in 1989.

Mr. KASICH. Mr. Speaker, let me first of all compliment my colleague and friend, the gentleman from South Carolina [Mr. SPRATT]. He has been obviously in a difficult position with some of his very top leadership aggressively opposing the agreement. He has also been a party on a day-to-day basis to the difficulty of being able to write this whole agreement, which has taken a period now of about 6 months. I want to thank him for his support. But I think the gentleman from South Carolina really is in a position to be able to understand what we have gone through on this, and to understand the good-faith efforts that have been made by all sides.

First of all, if we want to have an excuse to vote no, Members can come up with anything they want. I am very disappointed to see some of my friends and colleagues on the other side of the aisle coming up with nothing more than excuses to oppose this bill that is before us today, because the White House supports it. The reason why the White House supports it is because we have kept the spirit of this agreement.

Imagine this: about 4 or 5 months ago we started negotiating the entire operation of the Federal Government in an effort to balance the budget and come up with tax cuts. We ended up reaching an agreement. We kept our word to obviously let this House vote on two separate bills, the bills to cut spending to balance the budget, and tomorrow a bill to reduce the taxes and give some more power back to the American people.

We took this agreement, which was laid out in many, many pages, and we went to our committee chairmen, all of whom felt very strongly about the fact that they wanted to design some policies the way they thought made more sense.

I will just give the Members one example. The gentleman from Florida [Mr. SHAW] decided that he thought it was essential that we cover those people who are currently disabled who might find themselves off the rolls in a review process, our noncitizens. He decided it was more compassionate to help those people than to help a group of people who were here before the welfare bill was passed who might become disabled.

This was just an honest difference in terms of how we can spend money to be compassionate for people. It would be wrong, it would be unfair, and it would be unjust to accuse the gentleman from Florida [Mr. SHAW] of trying to violate the agreement. It was an honest difference in terms of how we would best help people who were in need.

Furthermore, the gentleman from Florida is the chairman of a subcommittee. He has the right to carry out some legislation, and at times the Speaker and I had to sit in rooms and we had to direct a whole panoply of activity across our conference under the grounds of making sure that this agreement was carried out in terms of its spirit.

Frankly, if Members take a look at the efforts that have been made contained in this reconciliation bill, we have done a job that is unparalleled in this House in modern times. The committee chairmen, constructively, to meet the agreement, they worked aggressively and with great bipartisan effort to bring the other side to this agreement, and at the end of the day I think we are pretty well there.

Let me just suggest one other thing that I would like Members to think about as they are in their offices, if they are a Democrat, when they want to come over here. Think about the House, for once. This is a terrific opportunity to join together to do something that we have not done in 30 years. We have a realistic chance. I predict, I believe, we will in fact have a bill. It will be signed into law. We will have a tax bill, it will pass, it will ultimately be signed into law. We are going to have a balanced budget. We are going to have tax cuts.

I think it represents a new opportunity for this House to push aside this partisan wrangling that we have been involved in over the period of the last several years and come together on something. This is just a matter of common sense. Mr. Speaker, if we had not lived up to the spirit of this accord, the administration would not be supporting the passage of this bill.

I ask Members to listen to their hearts and listen to their people. Do not listen to a bunch of people who want to find an excuse to keep this House divided, who want to find an excuse to nitpick, who want to find an excuse to downgrade the actions of our chairman, who tried to reach across the aisle and bring a document out here that really made sense and could really represent bipartisan spirit.

Let us just get out here today, come over here, give us a "yes" vote, move this bill into conference. There will be additional changes that will occur. But I would like to say to the rest of the Members in this House and to their staff and the people who watch this debate, it is a terrific day. We are going to balance the budget. The Berlin Wall of big government has fallen. There will be tax cuts. It is all going to happen because we stuck to principle. We believe in less government, we believe in shifting power, money, and influence from this city, and it is no longer rhetoric, Mr. Speaker, it is reality.

We are going to vote here today and we are going to move this process along, and at the end of the day, with the process of further give and take, not deviating from our principles, we will have signed into law before the end of this year the first balanced budget since man walked on the moon.

I think it gives the American people a little bit of hope that maybe some of us can get it right here in town, but let us not be confused. There is a proper role for the Federal Government, but into the future it will not be about the power of Government. It will be about the power of every man and every woman and every boy and every girl in this country to live their dreams, to be creative, innovative, be rewarded for their action, and to really, frankly, as we head into this third millennium, be able to gain speed in terms of the power of the United States to influence not just our hemisphere but the entire world, and to make a stand on which all of mankind can be proud.

Mr. OWENS. Mr. Speaker, I rise in strong opposition to the Budget Reconciliation Spending Act (H.R. 2015). Nothing is more important than the discussion of the budget. Our Nation's values are all locked up into the way it proceeds with its budget. What we really care about we should discover by watching what is included in the budget and understanding that what is really important to this Nation should be reflected in its budget. H.R. 2015 contains numerous modifications to entitlement programs—programs that are the last resort for many of America's children, women, and families.

While Congress is moving forward in the budget process, my colleagues must be reminded that our starting point—the White House-Republican budget agreement—was insufficient, especially in the area of education. We should have a budget which is not apologizing for the amount of money in it for education. It is crucial that we bring 21st century technology into our 19th century schools. The GAO estimates that we need $135 billion to rebuild our Nation's schools. My colleague from New York, Representative LOWEY, introduced a bill to forward the President's $5 billion initiative to stimulate funding to rebuild America's schools. These funds were not included in the White House-Republican agreement. Without the school construction initiative proposed by the President, many of the schools that have the greatest needs will not have the buildings to provide a safe and decent place for children to learn. The second area, is Head Start. There are an estimated 2.1 million children eligible for the Head Start Program. According to an analysis by the National Education Association, $11 billion is required to ensure that all of these children have access to early childhood learning, a crucial component in their developmental process. The funding necessary to serve these future American taxpayers again was not a part of the historic agreement. What message are we sending to the Nation by not funding this vital program for children 4 years old and under?

Today, we enter the stage in the budget process where permanent spending priorities are being proposed under H.R. 2015. The entitlement programs with the largest reduction in this bill are Medicare—$115 billion—and Medicaid—$11 billion. Why do we continue to cut Medicare and Medicaid? We do need to address Medicare and Medicaid in a new way, and stop the assumption that these programs are where most of the money is, and therefore justify proposals to cut Medicare and Medicaid. The savings that Medicare will yield will come from cutting payments to providers, $102 billion, mainly hospitals and health care plans, as well as $12.9 billion in increased premiums in Medicare part B to be paid by the Medicare beneficiaries.

That was yesterday's language. Today, the Republicans tell us that the increased premiums will be paid by some beneficiaries. These beneficiaries are described by their income percentage of the poverty level. For example, beneficiaries with incomes between 100 percent and 135 percent of the poverty level will not have Medicare part B premium increases; but, for those with incomes between 135 percent and 175 percent of the poverty level, the measure will cover that portion of the premium that is attributable to the transfer of home health services from Medicare part A to part B. Who will decide whether those with income at the 135 percent of poverty level be considered in the free category or premium increased category? Why are we being forced to move in a way which will penalize our elderly and our poor people?

The bill includes $16 billion over 5 years for a new child health assistance block grant. While $16 billion is better than nothing, it is estimated that the plan is far short of reaching one-half of the 10 million children who are without health coverage. Why has this funding for children's health care been changed to a block grant? Under the block grant concept, funds would be distributed to States based on the State's share of uninsured children, and then adjusted for the average cost of health. This appears to be a ball of confusion to me. We were grateful for the small step forward when we asked for funds to insure one-half of the uncovered children. Yet, the Congressional Budget Office recently released figures that indicate as few as 500,000 children would benefit from the block grant proposal. 500,000 is a mere drop in the bucket and embarrassingly short of the dramatic health care needs of this country's children.

Just a week ago, I welcomed the joint resolution celebrating the end of slavery in the

United States. I thought that it was a small gesture. However, it is an important one for a lot of Americans, both black and white, and I was pleased to see that not a single Member of the House of Representatives voted against this joint resolution introduced by the gentleman from Oklahoma [Mr. WATTS]. But today, when I see certain provisions included in the Welfare-to-Work Program, my pleasure is gone. The resolution that passed last week was simply a nonbinding, politically correct bill. Yet, today we are considering a bill that could become permanent law and would resort to a declassification of workers in the Workfare Program. I see benefits that every American in the workplace share not included in the welfare program. These workers, because they receive temporary assistance for needy families, would not be considered employees and would be deprived of protections under the Fair Labor Standards Act. These workers, both white and black, would be treated as second-class citizens. They would not be covered by the Equal Pay Act, title VII civil rights protection's SHA, or the family leave laws. Because they receive temporary assistance for needy families they are not protected against sexual harassment as other workers. This regulation states that "women subject to sexual harassment on a welfare-to-work assignment could be required to seek redress from the very agency that employed them." H.R. 2015 contains no appeals rights, and no court redress for workfare participants. Where is this Nation going? Where are our values? We have laws that protect all other workers from sexual harassment in the workplace. Are we sending the message that it is alright to sexually harass poor or needy women? This sounds like slavery all over again.

In direct breach of the so-called budget agreement, H.R. 2015 would sanction the discrimination and gross mistreatment of workfare participants. Yesterday, the New York Times documented a tragedy in which a 50-year-old Workfare participant in New York died on her job. Apparently, this individual suffered from coronary heart disease and was not able to work. Yet, the individual's well-documented medical history was allegedly ignored. The Times revealed that many workfare workers have complained about genuine health problems, and were still forced to work in conditions inimical to their health. And Congress' unconscionable answer to this is to ensure that wronged workfare workers have no Federal protections.

Moreover, H.R. 2015 reneges on the White House-Republican budget agreement's promise to restore benefits to legal, disabled immigrants who face termination from the SSI program in October. H.R. 2015 would ensure that those immigrants who received SSI before the date of the welfare reform bill's enactment, August 22, 1996, will continue to receive them. However, no provisions are made for those elderly, legal immigrants who were in the country by August 22 and became disabled after this date. At best, the omission of this protection reveals a distorted understanding of an agreement. At worst, it indicates a careless, despicable disregard for our legal immigrants who lack the ability to secure the resources needed to sustain a minimum standard of living.

Undoubtedly, this bill still needs more work. This Nation's budget must reflect our values. Our values do not rob the poor and our children to provide for the rich. We must educate our children, all ages. We must build new schools. We must provide child health care for all needy children. We must keep freedom alive for all citizens. And we must do all of this without cutting Medicare and Medicaid, thereby, penalizing our elderly and our poor. I urge my colleagues to reject this shameful budget bill and vote "no" against H.R. 2015.

Mrs. JOHNSON of Connecticut. Mr. Speaker, today I rise in support of the Balanced Budget Act of 1997. Specifically, I strongly support the provision that will allow any permanent resident who was receiving supplemental security income [SSI] as of the enactment of last year's welfare bill, August 22, 1996, to continue to do so.

I believe the noncitizen provisions in the Balanced Budget Act are compassionate and fair. By grandfathering everyone currently on SSI, it does not require anyone to undergo an eligibility redetermination process. I consider this to be essential, since those on SSI are some of our most vulnerable members of society—poor, elderly, and disabled. Imagine telling an 85-year-old widow who qualified for SSI under the elderly category that she may, or may not, lose her benefits based on whether the SSI employees determine her to be disabled as well as elderly. The disability determination process can be lengthy, detailed, and often full of uncertainties, especially for those with a limited command of English. I did not support eliminating SSI for those noncitizens already on the rolls last year, and I continue to oppose any efforts to take away benefits for this group of people. Subjecting 300,000 poor, elderly aliens to the SSI redetermination process is unjust.

I have been working closely with the Polish and Hispanic communities in my district to restore what I view as harmful cuts in benefits passed as part of the welfare bill. I cannot think of one group of people more vulnerable than the elderly and disabled dependent on supplementary security income. In addition to grandfathering all noncitizens on SSI as of last August, I support efforts to provide a bridge to those noncitizens who become disabled in the future. Legal permanent residents need to be aware of their options in the future, before they become disabled. If they work, or their spouse works, for 40 quarters, serve in the military, or become a U.S. citizen, legal residents will qualify for SSI. I am optimistic that most permanent residents will be prepared to meet at least one of these criteria and so protect themselves in case of a disabling accident.

As a bridge, for legal residents not qualified for SSI but who are borderline, I support a transition period so that noncitizens who came to the United States under the old rules and who are already borderline disabled or disabled but supported by family would be able to receive help.

I urge my colleagues to join me in support of the noncitizens provisions of the Balanced Budget Act of 1997.

Ms. CHRISTIAN-GREEN. Mr. Speaker, I rise in strong opposition to the budget reconciliation bill because it will hurt everyone from children to low income workers to legal immigrants.

Over 1 month ago, my colleagues on the other side of the aisle heralded the reaching an agreement with the President to balance the Federal budget by the year 2002. However, in an almost complete turnaround, this spending bill before the House today reflects a near complete repudiation of that agreement.

In addition to refusing to honor the budget agreement on health-care coverage for low-income elderly and uninsured children, the bill before us today makes deep cuts in the very important Disproportionate Share Hospital Program and the SSI State maintenance-of-effort.

Of particular concern to me and my colleagues who represent the over 4 million U.S. citizens in the U.S. territories and commonwealths, this spending bill completely eliminates all of the increments for inflation adjustments to the Medicaid Programs in these areas, that was provided in the balanced budget agreement. My constituents and those of my fellow congressional Delegates whose health care costs we cannot adequately meet at our present capped funding levels, were counting on even this small increase in our Medicaid payments.

The territories are capped under current law in the amount of Medicaid payments we can receive and as a result, our current funding level does not permit DSH payments to our already struggling hospitals. This very punitive decision not to provide this very needed increase in Medicaid payments for the territories will severely undermine the already fragile health-care delivery system and impact severely on children and the poor in the U.S. offshore areas.

This reconciliation bill defiantly turns its back on a hard fought bipartisan balanced budget agreement that reflected a compromise on many important and controversial issues. We must insist that the majority live up to the agreement they reached with the President by voting no on this deeply flawed bill.

Mr. VENTO. Mr. Speaker, I rise in opposition to this spending reconciliation bill. I supported the budget agreement worked out by President Clinton and Congress which mapped an outline for a plan to lead to a balanced budget by the year 2002. However, this reconciliation bill breaks the promises of that plan in numerous ways and includes several negative provisions that are unrelated to the budget or savings. This measure turns this budget bill into a "Where's Waldo" game. The majority has loaded the bill with so many distractions that I can scarcely notice the real budget deal anywhere.

The budget plan which we passed last month was a package of important compromises. Each of us would have changed certain priorities of that compromise package and adjusted the spending cuts and taxes differently, but we had, for the moment, found common ground in order to make progress. The resulting package was a sign that we as policymakers were willing to work together to compromise and collaborate in finding common ground, moving forward and doing what is possible in the next 18 months to achieve a socially and fiscally sound Federal Government. I voted for the plan last month even though certain provisions were imperfect.

The Republican majority is not standing by the promises, obligations, and good faith of that budget agreement. They are mauling and manipulating key provisions of the agreement in order to advance a different agenda which hurts working families, seniors, and legal immigrants. By breaking and reneging on the budget deal, the majority is risking a return to the political stalemate and the Government shutdown which we experienced during 1995–96, and more recently, the congressional disaster on the flood relief bill.

The Republicans have belatedly backtracked on a couple of their negative policy proposals. For instance, they are now agreeing to abide by the budget agreement and set aside $1.5 billion to help low-income seniors with rising Medicare premiums. The original bill, before it was changed yesterday in the Rules Committee, would have negated the budget agreement and set aside only one-third of that amount for low-income seniors.

But while they have changed a few provisions, many serious problems remain. The Republican majority is playing a pea and shell game with protections for legal immigrants. The budget agreement said that we would restore benefits for all legal immigrants who were in the country prior to August 23, 1996, and who are or later become disabled. This was but a partial solution to the problems legal immigrants face under the 1996 welfare reform law. Today's bill, however, does not follow through on that commitment and would deny any assistance to a legal tax-paying immigrant who suffers a tragedy and becomes disabled after August 1996. This was not the intent or the spirit of the budget agreement and no amount of Republican rhetoric will change that fact.

There are a host of other provisions which go against the budget agreement. A major point in the agreement was to provide health insurance coverage for 5 million of the 10 million uninsured children in America. However, this has been manipulated to provide so much flexibility to States that the money will not be spent on new children's health coverage. Instead, it will be substituted for existing State effort on a host of unrelated health care needs.

Also in the area of health insurance, Republicans have added several unrelated and negative provisions, which were not part of the budget agreement. First, the Republicans have added changes to medical liability laws to cap malpractice damages, a provision which may very well attract a Presidential veto. Republicans have also decided to try to add medical savings accounts to Medicare, which will drain money from the trust fund to primarily benefit healthier and wealthier seniors. In addition, the bill will allow States to privatize, or contract out the eligibility and enrollment functions of the Medicaid Program.

The bill allows for the creation of Multiple Employer Welfare Arrangements [MEWA's], or health insurance sponsored by associations. While those who attempt to put the best face on this describe it as another option for people to obtain health insurance, the effect of this bill would actually exempt such MEWA's from State regulation, meaning that they would not be subject to solvency requirements and consumer protections. This provision would have a very negative impact on Minnesota, undermining key Minnesota proactive health care reform efforts and would prevent other States from utilizing such initiatives.

Finally, the bill takes an antiworker stance by undermining basic employment protections for people on welfare. Those on welfare in the world of work must be accorded the same treatment as other workers. They are not second class workers or citizens.

All of these provisions are made worse by the fact that the companion budget tax break bill, which is to be considered tomorrow, overwhelmingly skews tax benefits to wealthier individuals and corporations. The people who will be impacted by the cutbacks and negative policy proposals we are voting on today, will not see the benefits of the tax package we are voting on tomorrow. In fact, in the GOP version of the tax breaks, 70 percent of the tax breaks will go to those with the top 20 percent of incomes. Because of the way the tax breaks are structured, working American families will not see the full benefit of the HOPE education credit or the child credit, not to mention the capital gains tax breaks.

It is unfortunate that the Republicans have chosen to add so many things to this budget bill, because the basic framework which was agreed upon in the budget deal was a positive framework. The budget deal which we agreed upon last month would have extended the Medicare trust fund, even while adding crucial preventive benefits to Medicare; preserved the Federal guarantee to Medicaid; strengthened environmental protection and enforcement; truly expanded health coverage for 5 million uninsured children; and increased investment in education, including increasing the amount and number of Pell grants, increases for Head Start, and key targeted tax breaks for higher education investments. The Clinton/congressional budget deal demonstrates that our country does not need to renege on basic commitments to the American people in order to balance the budget. We can invest in our Nation's future through health care, education, infrastructure, and the environment and still achieve sound budget goals.

However, the GOP majority, with this budget deal, is writing the law as if anything goes, irregardless of the commitments made in that budget agreement, and is trying to push through antiworker and antifamily proposals. I regret that the majority has taken this approach. I would have been supportive of a fair bill which followed through on the budget agreement in a reasonable manner, but this bill does not do that. Therefore, I regrettably, but forcefully urge my colleagues to vote against this measure which is unfair and reneges on the basic agreement.

Mr. MATSUI. Mr. Speaker, the Medicare proposal under consideration today was created using an open, bipartisan process. This process created a package with many provisions deserving of praise. It includes, for example, a proposal that helps military retirees in obtaining Medicare benefits by waiving a late enrollment penalty for those individuals who have traditionally relied on health care services on military bases. These men and women, who have dedicated their lives to serving the Armed Forces, now often find that the military base on which they have depended for health care is closing. This provision will help the honorable military retirees of Sacramento, CA, who will lose meaningful use of military health facilities when McClellan Air Force Base closes in 2001. I have previously introduced legislation to address this problem, and am pleased to see a solution in the package currently under consideration.

There are, however, a number of problems in the Medicare proposal approved in the Ways and Means Committee. First, unlike the Commerce Committee proposal, the Ways & Means plan fails to allocate graduate medical education expenses [GME], indirect medical education expenses [IME] and disproportionate share medical education expenses [IME] and disproportionate share hospital payments [DSH] directly to the hospitals which they are intended.

Congress legislated GME, IME, and DSH payments to help teaching hospitals and hospitals serving a disproportionately large share of low-income patients. When a Medicare beneficiary selects to enroll in managed care, however, these payments follow the Medicare managed care recipient directly to the managed care entity. Although the intention is that the payments will be passed through to hospitals, this is not always the case. Rather, money intended for these hospitals is often kept by the Managed care entities as profit or spent on other services.

This problem grows more severe as more enrollees enter managed care. In Sacramento, almost 45 percent of the Medicare population is in managed care. When these payments are not passed on to hospitals, the impact is felt. Carving out GME, IME, and DSH from managed care payments would enable teaching and DSH hospitals to receive the same types of subsidies under Medicare risk-contract arrangements that they do under fee-for-service Medicare. It would ensure that money intended for these hospitals is actually delivered.

There is a second proposal in the Ways and Means Committee Medicare bill that is unduly punitive to hospitals. Under current law, payments for inpatient hospital services are made under a prospective payment system [PPS], in which a predetermined rate is paid for each inpatient stay based on the patient's admitting diagnosis. PPS payment rates are updated annually. This Medicare proposal, however, would freeze the PPS update factor for the 1998 fiscal year.

The PPS freeze is not necessary to accomplish the goal of achieving a balanced budget. There are alternatives that would achieve the same level of savings with a less immediate impact on patient care and market dynamics.

In addition, any claim that the freeze will not harm hospitals contemplates a national average—but not specific areas or types of hospitals. We cannot ignore patients in our teaching hospitals and other hospitals with high Medicare caseloads simply because more financially secure hospitals will be able to weather this storm. Although the PPS update will freeze, no other aspect of hospital expenditures will remain stagnant. Wages, which represent a large part of hospital expenses, will still need to be paid, as will utilities and capital costs.

This measure is especially punitive to hospitals that are achieving the goals sought by

the PPS method of payment. They have achieved savings because they provide the most efficient patient care. Now that hospitals have achieved a level of efficiency, it is fair for the Medicare Program to share in this success by reducing updates. Yet it is not necessary to do it all at once.

Finally, I must add my voice to the chorus of concern in opposition to medical savings accounts [MSA's] MSA's are not in need of a demonstration project. We already know that MSA's cannot work and, in fact, they would cause harm.

The demonstration project in this proposal would drain over $2 billion from the Medicare trust fund. These costs represent money being channeled directly to the savings accounts of healthy seniors at the expense of those who are not as fortunate. MSA's defy the very nature of insurance by establishing private accounts for healthy individuals rather than using those funds to balance the risk of all Medicare recipients.

The MSA proposal also lacks fundamental consumer protections. We know from experience that consumer protections are necessary when selling policies to the elderly and disabled. We do not need to demonstrate this again. There is a long history of seniors being victimized by unscrupulous insurance agents when being sold health insurance. This unfortunate practice led to the necessary strengthening of MediGap protections in 1990.

We face a new round of abuse under the current provision—seniors and the disabled will be sold MSA plans without full disclosure of the risk of high out-of-pocket costs they will face. Salespeople will focus on the potential for building up large savings accounts, and will hide details of the high $6,000 deductible and huge doctor bills above the Medicare approved rate. Over 80 percent of Medicare beneficiaries have incomes under $25,000 and cannot face deductibles of $6,000 or the potential for unlimited balance billing contained in this package.

I am pleased with a number of provisions in the current Medicare package. It is, however, not perfect. It is my hope that these imperfections will be corrected before it is enacted into law.

Mr. SISISKY. Mr. Speaker, I rise today to express my qualified support for the prevention initiatives in the Budget Reconciliation Spending Act.

H.R. 2015 extends Medicare coverage for several preventive tests, including colorectal cancer screening. This is a tremendous step forward. This is a better bill because of it.

Under budget rules, this prevention initiative has to be scored as costing the Treasury money. But, in reality, nothing could be further from the truth. In the long run, screening saves money. It saves Medicare the expense of months or years of costly care. Much more importantly, it saves lives.

Some of you may know that I am a colon cancer survivor. After having surgery to remove my cancer, I made a commitment to do everything I can to help others beat this terrible disease. This bill is a downpayment on that commitment.

There is one way this legislation could be improved, however. Unfortunately, H.R. 2015 limits the screening tests available to patients and doctors. It provides Medicare coverage for some tests, but denies coverage for a test called the barium enema.

I have had all these tests. Take my word for it—there is nothing pleasant about any of them. Cancer patients will not be demanding to have these tests unless their doctors think it's absolutely necessary.

And doctors are in the best position to decide whether these tests are necessary. Congress is not. It makes no sense for Congress to be legislating against specific screening tests. It makes no sense for us to dictate which of these tests should or should not be used.

On this issue, the experts have spoken loud and clear. The American Cancer Society, the Office of Technology Assessment, and the Agency for Health Care Policy and Research all agree that the barium enema is effective in detecting colorectal cancer.

Some of you may be aware of the controversy among advocates of the various colorectal cancer screening procedures. This dispute is unfortunate. But it is not a dispute that we should have to referee in this bill.

There is a fair and reasonable alternative. We can and should ask the Secretary of Health and Human Services to make coverage decisions based on the recommendations of experts.

I understand this is the solution adopted in the Senate Finance bill. I would hope that the House conferees will recognize the wisdom of this approach and recede to the Senate provision.

Nevertheless, I do strongly support this bill and its prevention initiatives. But I think we can make a good bill even better. We can follow the Senate's lead and let the experts decide which screening tests should be available.

Mr. STARK. Mr. Speaker, I am voting against the spending provisions of the budget resolution today for several reasons.

The Ways and Means Committee approved the Medicare title of the budget bill in a bipartisan manner. We were given a number—$115 billion—by the Budget Committee. $115 billion is a higher number than I would have liked, but it was what we were given. We've successfully made all the groups and lobbyists in town equally unhappy—a sure sign that we've done something right.

But there are still many unacceptable provisions in the Medicare title.

Medical savings accounts have no place in the Medicare Program. They are a terrible scam to rip off Medicare for the sake of insurance companies and healthy, wealthy beneficiaries. Every legitimate health care policy expert has concluded that MSA's would create extra costs, resulting in a weakened trust fund. The Congressional Budget Office estimates that the extra cost to Medicare for each person who signs up for an MSA will be $1,000 in 1999, rising to an extra $1,650 by 2007. These costs are far too great to bear when we are trying to cut Medicare spending in order to preserve the program for future generations.

We could have—and should have—done more to fight fraud and abuse in the Medicare Program. The administration proposed at least a half billion dollars worth of antifraud changes which the committee did not accept. The press reports that the Medicare Office of Inspector General will soon release an audit of Medicare that shows a fraud, waste and abuse rate of 14 percent. That means about $23 billion in Medicare payments should not be made each year. Over 5 years, that equals $115 billion—the same amount we are cutting in this bill. We will never stop every last dollar of fraud and error, but we should certainly be doing better. To leave any antifraud proposals on the table when so much is being lost is not fair to the taxpayer or to the beneficiary.

Tomorrow's tax bill is a great wasted opportunity for the Medicare Program. Consider this: If we did not pass a tax cut bill tomorrow, but kept the amount of money that is going to be given away—largely to the rich—in savings bonds for Medicare, we could extend the life of the Medicare trust fund past 2021. The public should ask politicians who talk about the need to restructure Medicare and cut back its benefits, why they voted for a tax break for the rich, instead of saving that money for Medicare.

As we move to conference on the Medicare provisions, I challenge my colleagues to fully consider the devastating effects of Medicare structural changes proposed by the Senate.

We must defeat the Senate's idea of raising the age of Medicare eligibility from 65 to 67. This proposal is certain to increase the number of uninsured when early retirees and those retiring at age 65 are unable to afford private insurance policies to bridge the gap until Medicare eligibility. We should be expanding health insurance coverage in America—not shrinking it.

The Senate has proposed increasing the part B premiums and even the deductible on the basis of one's income. Others are talking about forcing seniors into managed care plans, and turning the program into a defined contribution plan that will not keep pace with inflation.

The Republican spending bill is flawed in other areas as well.

The Republican health proposal for children's health falls far short of providing health insurance for 5 million children as called for under the balanced budget agreement. Instead, the Congressional Budget Office estimates it will cover only half a million children. The bill proposes an unaccountable block grant which would allow States to: supplant rather than supplement, existing health funds for children; provide health care providers with additional funding even if they don't add new services for children; and use funds in a manner that would catalyze State fiscal gamesmanship. There is no requirement that a single child receive health insurance coverage under the proposal.

In terms of welfare, the Republican bill makes a group of Americans, who must rely on welfare to support their children, second-class citizens. These citizens, who must work off their benefits, will have no clear protections from sexual harassment or employment discrimination, and will be deprived of other crucial worker protections. There is no requirement that workfare workers get the same benefits and working conditions as others working a similar length of time and doing the same type of work. This is simply not fair.

Additionally, the Republican bill restores SSI and Medicaid to 125,000 fewer legal immigrants than the bipartisan budget agreement by the year 2007. The budget proposal would allow States to cut benefits to elderly, blind, and disabled Americans.

I did not support the welfare reform bill that passed last Congress because it needlessly and cruelly throws over 1 million children into poverty, and I do not support the Republican proposals today. The Republican attempts to reform welfare will end in destitution and misery for many innocent children.

For these reasons, I urge my colleagues to vote against the spending portions of the Budget Reconciliation Act and to carefully scrutinize the Senate restructuring proposals as we move toward conference.

Mrs. MORELLA. Mr. Speaker, I rise in support of the Balanced Budget Act. This bill begins the process of implementing the historic balanced budget agreement between the President and Congress. While I will be working to improve this bill, I urge my colleagues to vote for it and move the process forward. We cannot afford to lose this opportunity to bring the budget into balance.

I am very pleased that this bill contains an amendment I offered in the Government Reform and Oversight Committee to provide the legislative fix necessary to ensure that the Federal Employees Health Benefits Program continues to deliver high quality health care at reasonable costs well into the future.

FEHBP is an outstanding program. It is the country's largest employer-based health insurance program, serving the health care needs of almost 10 million Federal employees, retirees, and their families. It enjoys high customer satisfaction—over 85 percent. In fact, when Congress considered health care reform in 1994, FEHBP was touted as a model.

Without the FEHBP provision contained in this legislation, however, FEHBP's success could come to a grinding halt. The "Big Six" formula that is currently used to compute the premiums for FEHBP expires in 1999. Seven years ago, one of the six plans used to compute the current formula, Aetna, dropped out. Since then, the Aetna proxy has been used in the calculation. Under current law set in OBRA 1993, the formula is set to revert to a "Big Five" formula—without the Aetna proxy. This would cause employee premiums to rise, on average, $276 per year. Federal employees and retirees simply cannot absorb such huge increases, nor should they.

Back in February, I requested OPM's technical assistance to compute a new FEHBP formula. In a meeting in my office, OPM presented a plan based on their actuarial analysis of FEHBP data. I made several changes, but we agreed on establishing a new formula that will be derived from taking a weighted average of all the plans and setting the maximum government contribution at 72 percent. This new weighted average computation will ensure that Federal employee premiums do not rise. Thus the Government's share and employees' share will remain the same.

This approach makes sense. It is fair, it is stable, and does not depend on carriers that may or may not drop out of the program. It will not result in distributional changes nor will it create winners and losers. CBO recognizes the problem caused by the "Big Six" formula's expiration and assumes that Congress will enact a legislative fix, keeping government and employee contributions the same. CBO estimates that this fix would actually save $28 million over 5 years. I want to thank my colleagues who helped me to move this amendment through the Government Reform and Oversight Committee; Mr. MICA, Mr. DAVIS, Mr. CUMMINGS, Mr. BURTON and Mr. HOYER. This provision will make a critical difference in the lives of the nearly 10 million Federal employees, retirees, and dependents covered by FEHBP.

This legislation's Civil Service provisions save $4.762 billion, derived from increased agency and employee contributions to retirement. Over the last several years, Federal retirees and employees have been asked to bear a disproportionate share of deficit reduction, and I oppose deriving savings of $4.762 billion from Federal employees. But despite my strong protests, the Budget Committee assigned the Committee on Government Reform and Oversight a target of $4.762 billion in savings. This target was derived from the President's original budget, where he actually proposed to save $6.5 billion from Federal employees and retirees. Clearly, I am not pleased that the budget agreement has presented us with such a dilemma, but to ignore the committee's instructions would have been abdicating our responsibility to the Committee on the Budget, which could have redistributed the cuts in a way that would inflict even more pain. There is no easy way to get to $4.7 billion in savings, but the proposal agreed upon by the Government Reform and Oversight Committee is the fairest. In the Civil Service Subcommittee, I helped to defeat an amendment that would have singled out one group of employees—CSRS emloyees—for increased employee contributions. The savings we are approving today would increase agency contributions by 1.51 percent and would increase employee contributions by .50 percent, phased in through 2002. These are not painless spending cuts. Federal retirement contributions are paid out of agencies' salaries and expense accounts—accounts that are already constricted from past budget reductions. Increasing agency contributions at this time will further tighten agency accounts and could lead to further reductions-in-force or furloughs. This increase amounts to an across-the-board spending cut that will affect every agency and program in the Federal Government.

I am pleased, however, that this legislation does not delay Federal retiree COLA's. President Clinton's original budget also contained a three-month delay in Federal civilian retiree cost-of-living adjustments [COLA's] through 2002. The President's budget, however, would have subjected neither Social Security beneficiaries nor military retirees to this delay, imposing an unfair burden on only one group of retirees. I am very pleased that there will be no COLA delay—and that the savings coming from the proposed delay were dropped. Furthermore, as the sponsor of the resolution against COLA delays, House Concurrent Resolution 13, I am pleased that 250 Members are now on record in opposition to COLA delays.

Medicare is among our most important Federal programs. It provides health insurance for over 37 million seniors and has dramatically reduced poverty among our senior population. Unless we make changes to ensure its solvency, however, it is in danger of going bankrupt in just 4 short years. Growing at the rate of 10 percent a year, Medicare is one of the fastest growing programs in the budget. According to the Medicare trustees, the Medicare part A Trust Fund will be bankrupt by 2001, and it pays out $40 million more than it takes in every day. One of the most important charges we face as a Congress is to preserve Medicare for today's seniors and for our future seniors. I thank my colleagues on the Ways and Means and Commerce committees for responsibly addressing Medicare's solvency crisis. By slowing its rate of growth and offering beneficiaries more choices, this legislation will extend the life of the part A Trust Fund for 10 years. This legislation also offers beneficiaries more consumer protections, particularly important as more and more seniors choose Medicare HMO's.

I am pleased that the bill includes the provisions of H.R. 1002, legislation to standardize Medicare coverage for bone density testing for the diagnosis and prevention of osteoporosis. I am the sponsor of this bill, along with Congresswoman NANCY JOHNSON, who championed this bill in the Ways and Means Committee, and Congresswomen NITA LOWEY and EDDIE BERNICE JOHNSON. I want to commend Ways and Means Health Subcommittee Chairman BILL THOMAS for his strong support; members of the Health Subcommittee, many of whom were cosponsors and strong advocates, and Commerce Subcommittee on Health and Environment Chairman MIKE BILIRAKIS, and members of the subcommittee who also worked on behalf of this provision. I also want to thank the staff of both subcommittees and their members for their hard work as well.

Osteoporosis is a major health problem affecting 28 million Americans, who either have the disease or are at risk due to low bone mass; 80 percent are women. The disease causes 1.5 million fractures annually at a cost of $13.8 billion—$38 million per day—in direct medical expenses, and osteoporotic fractures cost the Medicare Program 3 percent of its overall costs. In their lifetimes, one in two women and one in eight men over the age of 50 will fracture a bone due to osteoporosis. A woman's risk of a hip fracture is equal to her combined risk of contracting breast, uterine, and ovarian cancer.

Osteoporosis is largely preventable and thousands of fractures could be avoided if low bone mass was detected early and treated. We now have drugs that promise to reduce fractures by 50 percent. However, identification of risk factors alone cannot predict how much bone a person has and how strong bone is. Experts estimate that without bone density tests, up to 40 percent of women with low bone mass could be missed.

Unfortunately, Medicare's coverage of bone density tests is inconsistent. Instead of national coverage of scientifically approved types of bone density tests, Medicare leaves decisions to local Medicare insurance carriers. The definition of who is qualified to receive a bone mass measurement varies from carrier to carrier. Some carriers require beneficiaries to have suffered substantial bone loss before allowing coverage for a bone density test. For

example, in about 20 States, the carriers require x ray proof of low bone mass or other abnormalities. Unfortunately, standard x ray tests do not reveal osteoporosis until 25 to 40 percent of bone mass has been lost.

One carrier allows a premenopausal woman to have a DXA test to determine whether hormone replacement therapy [HRT] is indicated. However, it does not allow the test to determine treatment for the postmenopausal women—the majority of Medicare beneficiaries. Other carriers have no specific rules to guide reimbursement and cover the tests on a haphazard case-by-case basis.

Inconsistency of bone mass measurement coverage policy is confusing and unfair to beneficiaries. The provisions embodying H.R. 1002 included in this bill will eliminate the confusion and standardize Medicare's coverage of bone mass measurement tests in order to avoid some of the 1.5 million fractures caused annually by osteoporosis.

I also commend Ways and Means Subcommittee on Health Chairman BILL THOMAS, Congressman BEN CARDIN, and Commerce Health Subcommittee Chairman BILIRAKIS for their sponsorship of H.R. 15, the Medicare preventive package in the bill providing for expanded coverage of mammography screening, pap smears, and pelvic exams, prostate and colorectal screening, and diabetes screening. I am pleased to be a cosponsor of H.R. 15, and I believe this expansion of preventive benefits will improve the detection and early treatment of these diseases. I also congratulate Congresswoman BARBARA KENNELLY and Congresswoman ELIZABETH FURSE, among others, with whom I have worked to expand coverage for mammography and diabetes screening.

I urge my colleagues to vote for the Balanced Budget Act. This bill combines the work of a number of committees, and implements the critical spending provisions of the balanced budget agreement. Without approval of this portion of the agreement, there will be no balanced budget. I am confident that further changes can be made in conference to improve the bill and gain the approval of a solid majority of Members and the President.

Mr. DEUTSCH. Mr. Speaker, I have been a longtime supporter of a balanced budget and I voted in support of the balanced budget agreement, but I cannot vote for H.R. 2015 because it veers too far from the agreement and includes some major policy changes that I cannot support.

One of the most important goals behind this legislation is to ensure the long-term solvency of the Medicare Program by containing the growth of program costs. One of the most successful ways we can do this, and have been doing this, is through managed care. However, Medicare managed care providers have been unfairly and dangerously targeted in this bill. The reality is that seniors join HMO's and are happy with their HMO's because these health plans provide seniors with extra benefits—like coverage of prescription drugs—that they would otherwise have to purchase Medigap supplemental insurance to cover. By radically reducing Medicare managed care payment rates, this bill will force Medicare HMO's to cut back services and limit the options available to seniors who might consider enrolling in HMO's. This is a horrible strategy for modernizing the Medicare Program.

This bill also cuts payment rates for critical services like home oxygen and assisted living devices, but it is these very home services that help seniors to stay out of hospitals and nursing homes. This is clearly inconsistent with a budget that seeks to control health care costs in the long run.

This bill also adds $2 billion in Medicare costs by adding medical savings accounts to the program. I supported the demonstration project for MSA's in the private market, but I do not think it is right for the Medicare Program. Instead of simply paying for the services that beneficiaries actually use, Medicare MSA's will pay healthy seniors when they do not use services. CBO has estimated that this will increase Medicare costs by $2 billion over 5 years. Why are we adding unnecessary costs like this when we are making such significant cuts to the program and increasing costs to beneficiaries?

This bill also makes the mistake of repealing quality assurances like the Boren amendment that have been put in place to protect seniors from the nursing home horrors that we saw before the Boren amendment was in place. It is just not necessary to lessen the quality of these programs to be cost-effective.

And then there's medical malpractice reform. Under this legislation, medical malpractice liability—in State and Federal courts—would limit noneconomic damages to $250,000. That means that retirees, homemakers, and the disabled who would not be able to demonstrate future economic loss would be capped at $250,000 in noneconomic damages no matter how grievous the injury is that they have suffered. Something as important as medical malpractice reform should not be tucked into this bill without complete hearings that would permit the public to express their views on medical malpractice reform.

I am very hopeful that these and other serious problems with this bill can be remedied in conference. I certainly support many of the provisions in this bill that I think will improve the Medicare Program, like the inclusion of preventive services such as mammography screening and colorectal cancer screening, and the expansion of beneficiary choice by adding options like provider sponsored networks to the program. But I cannot support the bill as it now stands when many of these provisions will actually hurt the very seniors these programs were designed to protect.

Mr. CONYERS. Mr. Speaker, I would like to bring to the Members' attention the provisions in the bill which would for the first time ever federalize the medical malpractice system. The proposals represent the most radical and one-sided liability limitations that have ever been considered by this legislative body. And why shouldn't they be—they were written by the AMA as part of a back room deal to obtain their support for Republican agenda, including their support for the proposed partial birth abortion ban.

The $250,000 cap on pain and is perhaps the most inequitable provision in the entire bill. Although harder to scientifically measure, noneconomic damages compensate real victims for real losses—including loss of sight, disfigurement, inability to bear children, incontinence, inability to feed or bathe oneself, or loss of a limb—that are simply not accounted for by lost wages or medical bills. This means that a woman or child facing excruciating pain and suffering for the rest of their life as a result of medical malpractice would have their right to compensation capped, but a CEO who couldn't perform his job because of the same exact injury would face no such cap.

The draconian new limitations on punitive damages will also penalize victims and protect wrongdoers. Under the Republican proposal, a doctor who fell asleep in the operating room or operated on the wrong patient could be completely insulated from punitive damages. The language goes so far as to cap the liability of a doctor who rapes his patient. Very often, punitive damages are the only way to truly deter such outrageous conduct, but this bill protects such people.

The new statute of limitations provision prohibits all victims from bringing any legal action more than 5 years after the negligence first occurred. It takes absolutely no account of the fact that many injuries caused by medical malpractice or faulty drugs take years or even decades to manifest themselves. Yet under the proposal, a patient who is negligently inflicted with HIV-infected blood and develops AIDS 6 years later would be forever barred from filing a medical malpractice or product liability claim.

The so-called periodic payment provisions are also blatantly antivictim. The bill would allow hospitals teetering on the verge of bankruptcy to delay and then completely avoid future financial obligations. And wrongdoers would have no obligation to pay any interest on any amount they owe to their victims.

The bill goes on and on, limiting injured victim's State law rights while protecting the most blatant possible malpractice one can imagine. The proponents of these measures couldn't care in the least how they effect the rights of the American people or the quality of medical care in this country—that's why they decided they didn't need to waste any time with committee markup or process.

A section-by-section itemization of my concerns regarding the medical malpractice provisions follows:

A. Statute of Limitations—Prohibits victims from bringing any state health care liability action more than two years after an injury is discovered or five years after the negligent conduct that caused the injury first occurred. Such a proposed new federal statute of limitations takes no account of the fact that many injuries caused by medical malpractice or faulty drugs often take years to manifest themselves. Thus under the proposal, a patient who is negligently inflicted with HIV-infected blood and develops AIDs six years later would be forever barred from filing a medical malpractice or product liability claim.

B. $250,000 Cap on Non-economic Damages—Caps the award of non-economic damages in medical malpractice actions at $250,000. The bulk of data indicates that dollar caps do not provide significant savings. Using information derived from a 1992 GAO study, the ABA's Special Committee on Medical Professional Liability found that state tort reform proposals "have not had any measurable impact on overall health [care] costs" and that personal health care spending had doubled between 1982 and 1990, regardless of the type of "reforms" adopted. A 1986 GAO study on the impact of specific tort

changes on medical malpractice claims revealed that claims and insurance costs continue to rise despite state-adopted limits on victim compensation.

Even the total elimination of malpractice costs would provide only negligible savings to the health care system. According to separate reviews by the U.S. Department of Health and Human Services and CBO, the total amount of all liability premiums paid in the United States represents less than 1% of the Nation's health care costs. And factoring in the costs of so-called "defensive medicine" would not result in any significant additional savings to the health care system, according to both the CBO and the Congressional Office of Technology Assessment.

An additional concern with caps on non-economic damages is that they could unfairly penalize those victims who suffer the most severe injury and are most in need of financial security. Although harder to scientifically measure, non-economic damages compensate victims for real losses—such as loss of sight, disfigurement, inability to bear children, incontinence, inability to feed or bathe oneself, or loss of a limb—that are not accounted for in lost wages. And non-economic damage caps have been found to have a disproportionately negative impact on women, minorities, the poor, the young, and the unemployed; since they generally have less wages, a greater proportion of their losses is non-economic.

C. Joint and Several Liability—Eliminates the state doctrine of joint and several liability for non-economic damages. This will allow wrongdoers to profit at the expense of innocent victims, rather than forcing tortfeasors to allocate liability among themselves, as has traditionally been the case under state law. And since women, minorities, and the poor generally earn less wages, such limitations on non-economic damages could have a disproportionately negative impact on these groups.

D. Limits on Punitive Damages—Caps punitive damage awards at the greater of $250,000 or three times economic damages; limit the state law standard for the award of punitive damages to intentional or "consciously indifferent" conduct; allow a bifurcated proceeding to determine issues relating to punitive damages; and completely ban punitive damages in the case of drugs or other devices that have been approved by the FDA or any other drug "generally recognized as safe and effective" pursuant to FDA-established conditions.

These proposed limitations raise a number of concerns. Arbitrary caps on punitive damages may provide unjustified windfalls to the few tortfeasons responsible for blatant and wanton medical misconduct. (In fact, studies have shown that only 265 medical malpractice punitive awards were awarded in the United States in the 30 years between 1963 and 1993.) By insulating grossly negligent conduct, the proposed new federal standard for establishing punitive damages comes close to criminalizing tort law. Permitting defendants to bifurcate proceedings concerning the award of punitive damages may well lead to far more costly and time-consuming proceedings, again working to the disadvantage of injured victims. And banning punitive damages for FDA-approved products is likely to have a disproportionate impact on women, since they make up the largest class of victims of medical products.

E. Periodic Payments—Grants wrongdoers the option of paying damage awards in excess of $50,000 on a periodic basis. This provision would apply not only to future economic damages realized over time, such as lost wages, but to non-economic losses, like the loss of a limb, that are realized all at once. Also, in contrast to many state law periodic payment provisions, the Republican proposal does not seek to protect the victim from the risk of nonpayment resulting from future insolvency by the wrongdoer or to specify that future payments should be increased to account for inflation or to reflect change circumstances.

F. Collateral Source and Subrogation—In most states under the collateral source rule, a victim is able to obtain compensation for the full amount of damages incurred, and his or her health insurance provider is able to seek subrogation in respect of its own payments to the victim. This ensures that the true cost of damages lies with the wrongdoer while eliminating the possibility of double recovery by the victim. The Republican proposal would turn this system on its head by allowing tortfeasons to introduce evidence of potential collateral payments owing from the insurer to the victim. This could have the effect of shifting costs from negligent doctors to the health insurance system in general and taxpayers in particular, resulting in increased health premiums paid by workers and businesses.

Another problematic feature of Republican malpractice proposals has been their one-sided, anti-victim nature. For example, their proposal allows States to enact more restrictive caps and damage limitations, but not permit the states freedom to grant victims any greater legal rights. Their proposals also ignore a number of complex legal issues. For example, in the state law context, various damage caps have been held to violate state constitutional guarantees relating to equal protection, due process, and rights of trial by jury and access to the courts; and these very same concerns are likely to be present at the federal level. And by layering a system of federal rules on top of a two-century old system of state common law, the Republican proposals will inevitably lead to confusing conflicts, not only within the federal and state courts, but between federal and state courts.

Finally, I would like to note several other concerns I have with the legislation relating to judiciary's jurisdiction concerning civil rights and immigration. I am strongly opposed to provisions from the Economic and Educational Opportunities Committee print and the Ways and Means Committee print providing that participants in the workfare program will not be considered employees for purposes of Federal law. As a result, these workers may not be covered under many laws that have helped working people over the years, including title VII of the Civil Rights Act of 1964 and other laws designed to protect working people from unsafe workplaces, racial and sexual harassment, and unfair wages.

It is wrong and patently unfair to require people to go to work and at the same time, deny them legal protections against discrimination. Title VII provides for a broad set of remedies for employees that are discriminated against on thesis of race, color, religion, sex or national origin. Unless this provision is fixed, it could make former welfare recipients second class citizens and punish people who leave welfare by taking away their basic, fundamental rights.

The legislation also continues to restrict Social Security income and Medicaid eligibility to those immigrants who were receiving such benefits as of August 22, 1996. This is a blatant violation of, and retreat from the bipartisan budget agreement which had promised to restore these benefits to legal residents who subsequently become disabled. Legal residents pay taxes and contribute to our society in the same way citizens do, and there is no moral justification for excluding them from our Nation's safety net.

I urge the Members to join me in opposing this legislation.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise today with concern about the reductions made in this legislation for Medicaid disproportionate share hospital [DSH] funding. The reductions made to DSH funding in this legislation will have a dramatic effect on Medicaid funding going to Connecticut, and 12 other States in similar situations: Alabama, Colorado, Kansas, Louisiana, Maine, Missouri, Nevada, New Hampshire, New Jersey, South Carolina, Tennessee, and Texas. My home State of Connecticut is a high-DSH State, meaning that we have a number of low-income people who lack health insurance use Federal and State Medicaid funding to assist our hospitals that treat. Connecticut is acting responsibly by using available Federal funds to address the problem of people lacking health insurance. The DSH program is an integral part of Connecticut's overall Medicaid Program, involving over $400 million in combined Federal and State funding.

The DSH formula in this legislation is unfair and disproportionately impacts a handful of states, including Connecticut, who have invested in DSH programs. These States are legitimately accessing funds through the Medicaid Program, which is designed to enhance the health care coverage of low-income people. We must recognize that DSH is not separate from Medicaid, but a critical component of providing quality health care to those who cannot otherwise afford it. During the fiscal year, Connecticut is receiving $204 million in DSH funding from the Federal Government. Under this proposal, DSH funding would drop dramatically by 40 percent over the next 5 years, with the most dramatic decreases in the out years, going from $204 million to $123 million by 2002. A reduction of this magnitude would likely force States to drastically reduce their commitment to helping hospitals treat the uninsured, and this at a time when I and many colleagues believe Congress must ensure access to affordable health insurance for the uninsured.

I am very pleased that Budget Committee Chairman KASICH has expressed a commitment today to look at the DSH formula more closely as the bill moves into the conference committee process. Any cuts in the DSH program must be imposed equitably on all States, regardless of their percentage of DSH spending.

Mr. GREEN. Mr. Speaker, I strongly oppose the inclusion of provisions authorizing private companies to determine eligibility and to verify income for the Medicaid and Food Stamp Programs. These items have nothing to do with the Federal budget, except to potentially make it worse in the years ahead, and it represents a significant policy change with broad-ranging implications.

These public policy changes deserve extensive debate based on the actual merits and risks—not on inflated claims and misinformation. We need to spend real time considering the implications of allowing private, for-profit companies to determine who is or is not eligible for services under Medicaid and food stamps.

There are no assurances in these provisions that the contractors will be required to comply with the most basic requirements and procedures which public agencies routinely follow, especially those relating to accountability of funds. Recent privatization arrangements indicate that private contractors do not believe they have a comply with procedures taken for granted in the public sector. For example, the private industry in Philadelphia had to be sued several years ago in order to get information about its federally funded training and job placement activities. Similarly, the private one-stop centers in Massachusetts have failed to provide any placement information necessary to measure their effectiveness.

The privatization provisions make no assurances of any actual savings or efficiencies. Experience suggests that the opposite could occur under privatization. In the case of California, Lockheed Martin Information Management Services promised to build an automated child-support enforcement system by 1995. The total price promised was $99 million.

Today, its $304 million, with major cost overruns. A consulting firm recently told State officials that it found 1,400 errors caused by Lockheed Martin, and a recent legislative report said that there is no guarantee that the system will ever work statewide.

The most amazing feature of these provisions is that while responsibility for administration of the Medicaid and Food Stamp Programs can be privatized, the amendment has insured that legal liability for constitutional torts remains with the state. It does this by including the following: "For purposed of any Federal law, such determination shall be considered to be made by the State and by a State agency."

The legal effect of this sentence is two-fold. First, it permits a private company to make a binding legal determination as to who is eligible for benefits and who is not. Historically, only government officials have granted or denied public welfare benefits to needy citizens. The second effect is that for the purpose of Federal laws protecting civil rights, the determinations made by private contractors shall be considered to be made by the State. In short, the State will remain liable for constitutional torts even if they are committed by private contractors.

This policy will greatly benefit the private contractors who will have an asset rich codefendant. It is only the States—who will retain liability while surrendering control—that will suffer. If these provisions are enacted, it will be appropriate to call if the Unfunded Mandate Act of 1997. The States will be left holding the bag for the mistakes made by the private entities.

There are no compelling reasons to go forward with wholesale privatization of the Medicaid and food stamp eligibility systems. In fact, we have not heard how access to services will be improved. And the public policy concerns, in particular public accountability, client privacy and the role of profit-making in serving the needy are overwhelming.

If we move forward with this idea, we will be neglecting our duty to our constituents to ensure the proper administration of the Medicaid and Food Stamps Programs. Substantial modifications to these programs deserve the full consideration of the Congress and should move through the regular legislative process. Privatization has nothing to do with balancing the budget and could place the agreement in jeopardy. In fact, the Office of Management and Budget has indicated its opposition to these provisions in a letter to the Rules Committee.

If you liked $100 hammers and $600 toilet seats, then you will like wholesale Medicaid and food stamp privatization. However, if you believe in public accountability of public funds, and providing care for our most vulnerable, then you will help me oppose these provisions.

Mr. GOODLING. Mr. Speaker, I rise in support of the Balanced Budget Act of 1997. This bill fulfills our promise to the American people: To balance the budget and make the Federal Government live within its means for the first time in over 30 years.

This bill puts into effect the bipartisan budget agreement negotiated last month. It proves that Congress and the administration can work together to find solutions that make sense.

The provisions marked up by the Committee on Education and the Workforce, which I chair, helps more people move from welfare into the work force; protects student loan programs, and helps millions of uninsured workers provide health insurance coverage to their families.

Mr. Speaker, consistent with the Budget Agreement, the bill before us today provides $3 billion of new funds to assist long-term welfare recipients into work.

Included under this part are provisions which ensure these funds will be directed through existing State and local employment and training systems as opposed to being used to establish a duplicative delivery system. This ensures that welfare to work programs will be part of local employment networks that include the private sector, elected officials, and local welfare agencies.

In addition, we have ensured that a vast majority of these welfare-to-work funds will be highly targeted to those areas with the highest concentration of long-term welfare recipients—allowing States and localities to make the best decisions on how best to assist these recipients into meaningful employment.

Let me also mention here the related labor provisions that are included as part of this welfare-to-work funding, because I can predict that we are going to continue to hear a lot of exaggerations and misstatements about what the bill actually says.

The bill has several important labor provisions. First, we apply Federal or State health and safety standards to any welfare recipient who is working with an employee who is covered by those standards. Second, we extend nondiscrimination laws to all participants in welfare-to-work activities; and third, we add provisions consistent with the administration with respect to providing minimum wage for workfare participants. Let me also clarify that if welfare recipients are hired as employees by a public or private employer, they are covered by the labor laws just as any other employee—including the minimum wage law.

Let's not lose sight of the reason for all of this: Welfare reform is premised largely on the belief that work is good, that even if one cannot be immediately employed that there are a lot of needs in our communities that people who receive welfare benefits can help attend to, and doing so helps both them and their communities.

It is clear what many on the other side of the aisle really want to do—end workfare as we know it. They didn't like it in 1988 welfare reform, they didn't like it under welfare reform last year, and they are trying again to kill it as part of the budget agreement.

Mr. Speaker, welfare reform is working because workfare is working—let's not stop success.

Mr. Speaker, let me briefly mention that this bill also helps ensure that students will continue to have access to funds for postsecondary education. The provisions we included will protect the student loan programs by making changes in the administration of both the guaranteed and the direct lending programs so that both will operate more efficiently.

Finally, Mr. Speaker, one other key component of our committee's budget reconciliation package is the legislation to expand health insurance coverage, through association health plans, to millions of employees of small businesses and the self-employed. By including in reconciliation the provisions of the Expanded Portability and Health Insurance Coverage Act of 1997, [EPHIC], we will empower millions of workers, their spouses and children to obtain more affordable health insurance through market-based reforms.

We are enabling small businesses to extend health care coverage to millions of American families who have no coverage at all today and are creating greater portability of coverage for many of those who already do.

EPHIC is consistent with the budget agreement, since it will expand health coverage to children at no additional Federal cost and give States more affordable coverage options to expand children's coverage under the $16 billion block grant in the bill.

The problem of the uninsured, both children and adults, is predominantly a problem of small businesses lacking access to affordable coverage. Over 80 percent of the 40 million uninsured are in families with at least 1 employed worker, the vast majority of whom are employed by small businesses or are self-employed. Small business experts testified, both last Congress and again at a hearing on EPHIC in May, that 20 million Americans who now lack coverage might gain it under the pools created by this bill. Moreover, over 80 percent of all uninsured children are in families with working parents.

Small businesses pay substantially more for insurance than do large corporations—that is why many cannot afford to offer coverage to their workers, even though they want to. EPHIC would expand the advantages that

larger employers now enjoy to small- and medium-size employers by allowing such businesses to pool together, thus expanding coverage through the private market—without new taxes or costly mandates.

Mr. Speaker, I am confident that this bill will help more Americans achieve the American Dream by taking the first steps toward balancing our Federal budget and I urge my colleagues to join me in supporting it.

Mr. HOBSON. Mr. Speaker, I rise today to urge my colleagues to vote for the Balanced Budget Act.

This bill today is where the rubber meets the road. We promised to balance the budget, we reached an agreement with the White House to do it, and now that agreement is being enacted with this legislation.

This budget achieves a Federal spending level below 20 percent of GDP for the first time since 1974. It slows the growth of all Federal spending to just 3 percent for the next 5 years—that's a savings of $289 billion.

We also promised to save Medicare from bankruptcy and expand health care options for seniors, and we're doing that with this legislation.

Though I'm sure there might be some who disagree with small portions of this legislation, after all it is a very large bill, but we worked together across the aisle to get it done. This demonstrates that Congress and the administration can work together constructively—as they should—to solve problems.

There's one group of people that is getting everything it wants from this bill, and that's the generation of Americans who will take the mantle of leadership in the years to come.

Without the fundamental changes to Medicare and entitlement programs that we're enacting here, none of these valuable programs will be around for the next generation to enjoy. By acting now with this bill to save Medicare from bankruptcy and rein in the out-of-control costs of Medicaid, the next generation will inherit functioning, solvent programs and a national economy that is thriving and secure. That's the legacy I intend on leaving to my children, and it's the legacy the American people want us to leave to their children also. This bill makes it possible.

Join me today in standing up for responsible spending, for seniors, for our children and grandchildren's future, and voting to approve the Balanced Budget Act.

Mr. PACKARD. Mr. Speaker, I rise today in support of an issue that is of importance to families and workers across the nation—the Balanced Budget Act. Our budget proposal would give Americans the first balanced budget in 30 years, while providing tax relief for American families and shifting power, money and influence out of Washington and back to Americans at home.

Passage of the Balanced Budget Act will be a great victory for the American people. It will show the American people that we are on target and committed to balancing the budget by 2002. Budgets are about much more than numbers. They are about priorities and people. This budget is about replacing Washington values with real America's values. People know that one-size-fits all policies from Washington don't work. Our budget returns power back home where people know how to solve their problems best.

Furthermore, this budget proposal addresses the real concerns Americans have about stagnant wages and job security through tax relief and policies that will increase savings and investment. Greater savings and investment will provide our workers with the high-tech tools they need to compete successfully in the global marketplace—and that means more jobs and better pay.

By preparing our country to meet the challenges of the next century, our budget ensures that the American Dream—that our children will enjoy a future with more and better opportunities than we now enjoy—will live on for generations to come.

Mr. PAUL. Mr. Speaker, I rise today in opposition to the Balanced Budget Act (H.R. 2015), authorizing the expenditure of an additional $3 billion in taxpayer dollars on "Welfare to Work" programs as the Federal Government has no constitutional authority to spend taxpayer dollars on welfare-to-work programs.

Congress is once again engaging in the tired ritual of the 5-year balanced budget plan. Repeatedly over the past 25 years there have been lofty proclamations that the budget would be balanced in 5 years because of government forecasts of continued growth. Each 5 year plan was announced with great fanfare and happy feelings of bipartisanship, yet, each plan fails to balance the budget because the economic forecasting upon which they were based never reflect actual economic circumstances.

The Federal Government cannot predict exactly how the economy—the aggregate spending and saving habits of every individual in the nation—will behave over the course of the next 5 years. Because the economic situation in the future will be based upon the actions of individuals acting on their subjective preferences, these preferences are impossible to predict. The failure of every socialist government, whether totalitarian or democratic, to fulfill its leaders' promises of unlimited economic prosperity demonstrates the futility of government planning based upon the economic forecasts of government officials.

It is, however, only a matter of time before the burden of taxes, spending, debt, and inflation catapult America's economy into yet another recession. When the optimistic projects of growth prove to be based more in hope than reality, the budget figures will be "revised" and a future Congress will once again confront the questions of balancing the budget.

Even if the budget being considered by this Congress were guaranteed to balance the budget within 5 years, it should still be rejected because it fails to eliminate even one unconstitutional function of the Federal Government. Despite proclamations that "the era of Big Government is over", this budget actually increases taxpayer spending for many unconstitutional programs. The main problem with government policy today is not that the government cannot balance its books, but that the Federal Government is performing too many functions for which it lacks any constitutional authority.

Mr. Speaker, the authorization of an additional three billion dollars for a welfare-to-work program, is a perfect example of how the budget proposal fails to address the basic question of how the welfare state exceeds the constitutional limitations on the power of the Federal Government. Under the tenth amendment to the United States Constitution, the Federal Government has no authority to take money from the people of Texas to spend on welfare programs for the people of New York. Welfare and job training programs are strictly the province of the individual States.

The reconciliation proposal not only unconstitutionally spends Federal taxpayer funds on welfare programs, it dictates to the States how they must run their welfare-to-work programs. For example, States are required to spend 1 dollar of their own money for every 3 dollars of Federal money they receive, and they must distribute the funds according to a pre-determined Federal formula.

Short of defunding all welfare programs and transferring responsibility for those programs back to the States and the people, Congress should provide maximum flexibility to the States to manage these programs as State officials see fit. For example, the amendment offered and later withdrawn by Mr. JOHNSON to allow State governments to use nongovernmental personnel in the determination of eligibility under the Medicaid, Food Stamp, and special supplemental nutrition programs for Women, Infants, and Children, is a step toward restoring federalism in welfare policy. It is not for Washington to determine the strengths and weaknesses of such a plan, these decisions are solely the responsibility of the States.

In the name of transferring citizens from welfare to work, this bill provides millions of taxpayer dollars to move businesses onto the welfare rolls. Under this proposal, State governments may hand over taxpayer dollars to businesses for private sector job creation, employment, wage subsidies, on-the-job training, contacts with job placement companies, and job vouchers. By providing payments to private businesses who place and hire welfare recipients, Congress is creating a dangerous and powerful new constituency for welfare programs and, in effect, making it more difficult for future Congresses to reduce welfare expenditures.

The welfare-to-work proposal also creates powerful disincentives for businesses to give welfare recipients a chance at a new life through an entry-level job. If this proposal becomes law, welfare recipients in entry-level jobs will be entitled to receive the minimum wage and be covered by certain health and safety regulations. Because mandating wages and benefits increases the costs to businesses of hiring new workers, any wage, safety, or health regulations discourage the hiring of new employees. This is especially true in the case of marginal employees who lack well-developed job skills. This bill restricts welfare recipients' ability to find gainful employment; the very population this bill is allegedly targeted to benefit.

It is time to return to the most effective job creation machine in history—the free market. Any alternative necessarily results in suboptimal employment. Government is institutionally incapable of creating bonafide jobs.

Private citizens acting freely are more than capable of caring for the needs of the less fortunate if the Federal Government stops appropriating so many of their resources for wasteful, bureaucratic, federal programs.

In conclusion, Mr. Speaker, I urge Congress to reject the phony balanced budget plan before us today as that plan rests on two dubious notions: 1. Government can predict the economic future of the country; 2. The burden of taxes and spending placed on the economy by government will not cause America to experience an economic downturn.

Furthermore, this proposal continues the Federal Government's unconstitutional micromanaging of State welfare programs. This bill extends corporate welfare in the form of subsidies to businesses which hire current welfare recipients thus creating a new client group for the welfare State.

Mr. Speaker, the only way to permanently balance the budget and end welfare as we know it is to cease all federal expenditures for redistributionist programs not authorized under the United States Constitution. Therefore, all Members of the House of Representatives sincerely committed to limited government must oppose this proposal and instead work to defund all unconstitutional programs and return the authority for welfare programs to those best able to manage them.

Mr. EVERETT. Mr. Speaker, While I support the vast majority of the provisions of this legislation to implement the balanced budget agreement, I must express my strong opposition to the dramatic cuts in the Medicaid Disproportionate Share Program (DSH) as recommended by the Commerce Committee.

Mr. Speaker, this provision proposes a 40 percent cut in DSH payments to 13 so-called "high DSH" States. This drastic cut unfairly and punitively targets Alabama and 12 other States with unfortunately high levels of women, children, elderly, disabled and indigent living in poverty. Simply put, a 40 percent reduction in DSH payments over 5 years will cause irreparable harm to Alabama's safety net hospitals, major urban teaching institutions and rural hospitals throughout the State. These hospitals, to a one, meet the highest standards of quality, access and compassion year after year.

Mr. Speaker, we have a responsibility to address and fulfill the health care needs of our large number of Medicaid and indigent patients. Governor Fob James and the Alabama Medicaid Commission are actively seeking savings, program improvements and increased state participation. While other provisions contained in HR 2015 would assist their efforts, the DSH reductions would devastate the Alabama Medicaid Program and endanger the health and well-being of Alabama's poor, elderly and disabled, who suffer enough living in poverty.

Mr. Speaker, I understand that the motion to recomit may address this matter, but I do not believe the motion is an appropriate avenue for resolution. The Leadership is aware of my concerns and has agreed to revisit this issue in conference. Hopefully, an agreement will be reached to change the formula to reflect a reasonable and compassionate funding allocation within the bonds of the budget plan.

Mr. KLECZKA. Mr. Speaker, included in this budget package is a provision which severely threatens every American who seeks medical treatment. Under the Ways and Means Medicare Title we are considering today, noneconomic damages in medical malpractice suits will be limited to $250,000 per case—regardless of the number of persons or the number of actions brought. This, Mr. Speaker, is a terrible mistake.

Mr. Speaker, we simply cannot afford to weaken our current medical malpractice laws. In this age of managed care, the financial incentives of medicine have been completely turned around. In today's managed care world, doctors make more money by "managing care", by not practicing good medicine, by not ordering tests, by not doing surgeries.

The Republicans argue that the threat of malpractice suits is driving up medical costs unnecessarily. They argue that physicians are being forced to practice defensive medicine—forced to order additional unnecessary tests and procedures to cover themselves in case they might be sued. Mr. Speaker, this simply is not the case. In fact, a study conducted by the Office of Technology Assessment concluded that less than 8 percent of all diagnostic procedures are likely to be caused by conscious concern about malpractice.

The Office of Technology Assessment and the Congressional Budget Office who have thoroughly studied this issue have never found any evidence that defensive medicine is a significant health care cost. In fact, many times this so-called defensive medicine is, in reality, medically appropriate. Even the most liberal estimate of the cost of defensive medicine amounts to only 0.07 percent of total annual health care costs.

Furthermore, Mr. Speaker, a Harvard University Study indicated that of the 40 million hospital admission each year, 400,000 patients or 1% suffer preventable injuries from substandard care. 50,000 of these patients die from that care. The other 350,000 suffer nonfatal injuries resulting in 30 days disability or longer. Only 2 percent of these incidents—or, 8000 cases—actually make it to a malpractice trial. Clearly, malpractice, itself, is the true cost in today's health care system, not malpractice suits.

By weakening malpractice laws we are likely to encourage more careless—not more careful—medical care. Let's not take this dangerous step. The real victims in the medical malpractice debate are not the physicians—the real victims are the thousands of patients who are killed or injured each year due to medical negligence. We absolutely cannot afford to abandon the protections provided by our judicial system. Let's maintain the protections that our current malpractice laws provide.

Mr. BERRY. Mr. Speaker, I rise today in reluctant opposition to this budget package. I truly respect and admire those who worked long and hard to prepare this carefully crafted compromise. Both sides—the White House and Republican leaders—put aside many of their differences to agree to a budget that goes a long way toward putting our nation on healthy economic footing.

I am a strong believer in our need to balance the Federal budget. I am a co-sponsor of legislation that would require a constitutional amendment to balance the budget, and I supported the spending cuts contained in the original outline of this proposal.

Mr. Speaker, three weeks ago I voted in favor of the numbers. However, today, I cannot support the policies that have been crafted to stand behind those numbers.

I cannot, for example, support the package's Medicare legislation. While I believe that we all need to work together to ensure Medicare's solvency, this proposal increases beneficiary premiums by an amount that I cannot support. It cuts payments to the hospitals in my rural district at a rate that will be difficult to absorb. Rural hospitals already operate at much lower margins than their urban counterparts and will be disproportionally impacted by this proposal. Every single hospital administrator in my district has written me in opposition to this proposal.

In addition, it does not provide an adequate cushion against premium increases for the lowest-income. We can ensure Medicare's solvency for the long term without harming our seniors, and I think we must put some more thought into how to do that.

The bill also does not have an adequate enforcement mechanism, something that I believe is crucial if we really are committed to balancing the budget. It's one thing to tell America that we're going to put our fiscal checkbook in order, but it's another thing if we don't provide any incentive to do so. As this budget now stands, the federal budget will increase during the first 2 years, requiring that all cuts to Federal programs take place in the last 3 years. I don't believe that putting off until tomorrow what we rightly ought to have the political courage to do today will balance the budget. If anything, this package could make our federal deficit even worse.

In addition, the bill's plan to auction the broadcast spectrum may be too much, too fast. Counting on the revenues from this sale, without adequate protections for rural broadcasters, may jeopardize service in rural areas.

Likewise, the bill's children's health program, instead of being modeled after the successful initiatives being implemented in Arkansas and other States, is fiscally irresponsible, $16 billion no-strings-attached give-away that does not ensure that the funding will go to those who need it most—the children.

In fact, the Congressional Budget Office estimates that this $16 billion will cover less than 520,000 children of the 10 million now without health insurance. The average children's health insurance policy today costs about $800 a year—spending $16 billion for only 520,000 policies is a waste of our taxpayer's hard earned money. This proposal, in effect, costs taxpayers $6,000 per policy, per year. More cost-effective children's health insurance legislation, such as a plan I developed as co-chairman of the House Democratic Caucus' Health Task Force, is needed. Our plan, with a more prudent and responsible use of the $16 billion in the budget agreement, would cover an estimated 5 million children.

Also of note is the fact that this budget does not provide adequate safeguards to our senior citizens who rely on the Medicaid Program for their care. I will continue to oppose any budget, any legislation or any law that in any way

endangers the health care of our senior citizens. I also oppose the bill's repeal of adequate payments to hospitals under the Medicaid Program and its repeal of important consumer protections, which could result in reduced services to those who rely on this important program in Arkansas.

Lastly, this budget repeals important labor and civil rights protections for those seeking to move from welfare to work. Last year, Congress voted to end the entitlement status of public assistance and we all agree that the cycle of welfare dependency should be stopped and that our citizens should be given the opportunity to obtain economic self-sufficiency. However, in doing so, we cannot expect former welfare recipients to work without the guaranteed protection granted to every other employee under the Fair Labor Standards Act.

While I support many of the concepts contained in this budget, I cannot in good conscience support it today. I believe, however, that other opportunities will exist in the near future to support a more reasonable and effective budget. The House's consideration of this proposal today is just the first step in what will be a long political process. The final version of the proposal, following a House-Senate conference committee, may be something I can support.

But today, with great regret, I must vote with my conscience and vote against this proposal.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to speak in opposition to this year's budget reconciliation bill. As the House considers this bill, I recall the words of the great Senator from Minnesota, Hubert Humprehy when he said:

> . . . that the moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life—the sick, the needy and the handicapped.

Mr. Speaker, this reconciliation bill fails that crucial test of government's compassion for all those individuals. When this Republican package fails to provide welfare workers the leave to care for their children and parents under the Family Medical Leave Act, it fails the moral test of government. A Republican bill that backs away from the commitment between GOP leaders and the President to restore Federal aid to disabled legal immigrants fails the test of how the Government should treat those in the shadows of life, the people with disabilities—who pay their taxes.

Mr. Speaker, last week, certain members of the majority were behind the effort to issue an apology for slavery in this country. Less than a week later, their reconciliation bill states that benefits provided to welfare workers are not to be considered wages or compensation. Simply stated, this is an underhanded effort to deny welfare workers the labor and nondiscrimination protections that all other workers enjoy. In essence, this is confining the welfare worker to a modern day life of slavery. Mr. Speaker, how long will it take for the majority to apologize for this?

Mr. Speaker, just yesterday, we heard many colleagues on the other side of the aisle speak in grandiose tones about human rights violations in China when we voted on MFN. They opposed granting MFN because they believed that it would not help stop human rights and civil liberty abuses. Unfortunately, they are quick to ignore the human rights of our own people with a bill that restricts access to health care insurance, fair pay protections for welfare workers, weak sexual harassment protections and the rights and benefits of legal immigrants.

This bill continues to further the benefits of the rich while eroding the opportunities for the poor, the children, and those with disabilities. Mr. Speaker, I sincerely hope that any colleagues who voted for the budget resolution hoping that it would balance the budget while helping the unprotected, will now vote against this reconciliation bill as it falls tremendously short in helping those who need help the most.

Mr. Speaker, I ask my colleagues to oppose this bill and have our Government live up to its moral test of how it treats the most vulnerable and disadvantaged in our country.

Ms. McCARTHY of Missouri. Mr. Speaker, I rise to support passage of H.R. 2015, the Balanced Budget Act. Balancing the budget is one of the most important actions we can take to keep the economy strong, provide jobs, and keep the American dream alive for future generations. I offer my support to move the process forward because I see this bill as a work in progress. The measure has several problems that I hope will be resolved as the details are worked out in the Conference Committee. These are provisions that go beyond being characterized as difficult decisions; they are important issues that must be addressed or we will create problems larger than those we are trying to solve with this legislation.

One of the most serious issues for my home State of Missouri is the method by which we achieve the Medicaid savings called for in the budget agreement. All of the savings for Medicaid are targeted to come from the Disproportionate Share Hospital Program, and in particular, the formula that was reported out of the Commerce Committee targeted the greatest amount of cuts from the States that use the Disproportionate Share Program the most. While there may have been problems associated with the program in other States, Missouri runs a very efficient program and has always used the Disproportionate Share funds to compensate hospitals for the cost of providing care to the indigent and uninsured. The formula should be changed by the Conference Committee to better distribute the savings from the Disproprionate Share Program among all States that use those funds.

Another of the more serious problems with this bill is its complete disregard for sound spectrum policy. Once again, common sense has taken a back seat to budgetary needs, and another spectrum auction has been ordered that will not raise the funds that are expected. For the past 5 years, spectrum space has been sold to pay for our budget needs, yet each year the financial return on these auctions has decreased. The future market is uncertain since the current market is saturated with spectrum. In addition, the spectrum market devaluation affects minority and women-owned businesses who have been allowed to make a longer payment schedule for their previous spectrum investments.

A third item that must be improved is the provision relating to expanding health care coverage for uninsured children. As a member of the Democratic Children's Health Care Task Force, I support efforts to provide assistance to the estimated 10 million children in this country that currently are not insured. The Democratic alternative builds on the Medicaid Program, with an enhanced match which would provide children in need with the greatest chance for appropriate care and an adequate benefits package. The provisions of this bill use a block grant approach which, according to CBO, may only cover 500,000 additional children, not the 5 million goal outlined in the budget negotiations.

I commend all negotiators who have worked tirelessly on this legislation. The task of balancing the budget is not an easy one. We have to be prepared to make tough choices that may be difficult for our constituencies back home. The bill achieves an important goal that I have worked toward during my entire tenure in Congress, a balanced Federal budget. I therefore support efforts to send H.R. 2015 to the conference committee in the hope of further improvements prior to final passage.

Mr. POSHARD. Mr. Speaker, it is with great regret that I rise today in opposition to the budget reconciliation bill. During my tenure in Congress, I have championed balancing the budget and eliminating our deficit. I have proudly supported a balanced budget constitutional amendment, and I voted in favor of the balanced budget agreement reached by President Clinton and Members of Congress. In the past, I have voted for the budget alternative offered by the Blue Dog Coalition of conservative Democrats because it followed a formula that foregoes large tax cuts until our budget is balanced. The Blue Dog budget thereby avoided deep cuts in programs that benefit our most vulnerable citizens, postponing the rewards associated with a balanced budget until we have all made the sacrifices necessary to achieve this goal.

Mr. Speaker, I would like very much to be able to support the budget reconciliation before us today. I realize that it represents a huge step toward a goal that I have endorsed for years, and I appreciate the hard work and difficult choices of my colleagues that have allowed us to come this far. But I cannot vote for a budget that forces certain members of our society to bear such a tremendous burden while allowing others to enjoy the fruits of a balanced budget before one even exists. Those that will suffer under this bill are the same citizens that have already suffered too much. We cannot require sacrifice from some but not from others, and it is this conviction which will force me to vote against this bill, and to oppose the tax bill which will come before this House tomorrow.

I have no doubt that the up-front tax cuts in the reconciliation legislation will, in time, cause the deficit to explode, creating a situation where we respond by taking more money away from programs which help the neediest people in this country. Why should we work this hard and this long to arrive at a plan to balance the budget, only to have the course reverse a few years from now, forcing our colleagues and successors to solve the same problems all over again?

Among the specific provisions of this spending bill which cause me great concern is that which would permit privatization of administrative operations within the Food Stamp Program. I do not believe that private entities should be engaged in eligibility determinations for this or any other benefits program. In addition, I feel that this spending bill does a great disservice to our Nation's veterans, who have provided an invaluable contribution. Slashing their benefits is certainly not the way I want to demonstrate my gratitude. Furthermore, I must express my deep concern for the bill's piecemeal restoration of SSI benefits to legal immigrants. While I applaud provisions which return SSI and Medicaid benefits to those legal immigrants who were receiving them as of last August, I believe we must go further and guarantee benefits to those legal immigrants who were living in our country last summer but who unfortunately have become disabled since that time.

No. Mr. Speaker, this bill is not perfect. When I voted to support the balanced budget agreement, I knew that there was still work to be done, but I was confident that resulting reconciliation bills would address the major problems, and I would be able to support them in good conscience. Sadly, it appears I was wrong, and now I must make yet another of the tough choices that such a process always requires, and vote against this legislation. I care deeply about balancing our Federal budget and have worked as hard as anyone in this body to reach this goal. But as important as this end may be, I cannot support the means that my colleagues have decided to employ in order to reach it. It is simply not right to ask those who can least afford it to bear the burdens of our compromises. Until we agree that sacrifices must be made across the board, and until we agree that the rewards should be similarly enjoyed, I urge my colleagues to join me in opposing this budget legislation and in continuing to work to find equitable solutions. The goal of a balanced budget is well within our reach, but we are not quite there. Let's take the time and put in the effort to do this right, so that we can be proud of our contribution to the American people.

Mr. KLECZKA. Mr. Speaker, today we are debating a budget reconciliation bill that contains a Medical Savings Account, or MSA, demonstration project. We have seen this Medical Savings Account demonstration project debated on this floor before. Last Congress, we passed a law establishing MSA's for the under 65 population. This budget bill takes the MSA idea one dangerous step further by opening up an MSA option for 500,000 seniors enrolled in the Medicare Program. Mr. Speaker, MSAs may sound like a good thing, but in reality they are very risky.

Countless health care policy experts have concluded that MSA's will create extra costs for the Medicare Program and weaken the already compromised trust fund. The Congressional Budget Office estimated that the Republican demonstration included in this bill will cost the Federal Government over 5 years—$2.2 billion. In these times of budgetary austerity, when the Medicare trust fund is on the verge of collapse, I ask my colleagues: is this really where we ought to be targeting our precious resources?

Supporters of the MSA demonstration project argue that MSA's will enable seniors to take responsibility for their own health care because they will be more aware of what their health care choices really cost. In reality, Mr. Speaker, MSA's will give the bank accounts of wealthier and healthier people, who now cost Medicare very little, Federal money every year to spend as they see fit. MSA's will allow these individuals to leave the larger insurance pool and the shared risk that the large insurance pool provides. And, as a result, the Medicare Program will be left with only the poorer and the sicker individuals who are more costly to treat. Mr. Speaker, MSA's will undermine the very purpose of insurance—shared risk. A shared risk that spreads the high medical costs of the few, among the many other individuals who have low medical costs.

Mr. Speaker, adding MSA's to the Medicare Program is a terrible mistake. While we all support expanding seniors choices, we simply cannot afford the risks that the MSA's in this bill pose to the long-term financial stability of the Medicare Program.

Mr. MARKEY. Mr. Speaker, is it just me, or have we gone "Back to the Future." My colleagues on the other side of the aisle are once again presenting the American people with a false choice—slashing Medicare to provide huge tax breaks for the wealthiest Americans. The Republican leadership seems caught in a playback loop—putting on a straight face and arguing here on the floor and in committee that cutting $115 billion in Medicare spending will somehow save the program, despite the fact that not one dime of these savings goes to the trust fund, and despite the fact that the budget plan also includes an $85 billion tax break for the wealthy. That's nearly a dollar for dollar tradeoff.

And what would the Republicans have us trade off—health care for seniors versus health clubs for the wealthy—Medicare for maid service. Is this any way to make public policy?

Is it sensible to construct a public policy that sends 87 percent of the benefits of tax and entitlement changes to people in the top 20 percent of income levels in our country? Is it sensible to construct public policy that sends a measly 4 percent of the benefits to people in the bottom 60 percent of income levels?

"Holy hatchet job, Mr. Speaker" the Republican Party's dynamic duo of proposals for this week is a double-barreled attack on working families. Piled on top of last year's policy changes, the Republican tax scheme will actually reduce the after-tax income of the poorest 20 percent of our people by $420 per year. The top 20 percent in our country will get an after-tax raise of $2,500, and the top 1 percent get a whopping after-tax raise of $27,000.

"Riddle me this, Mr. Speaker:" What piece of legislation expands tax subsidies for IRA's, nearly doubles the maximums for estate taxes, and reduces the alternative minimum tax on huge corporations? Why, it's the so-called Taxpayer Relief Act that we will take up tomorrow.

Who would launch such a dastardly scheme?

Our colleagues on the other side of the aisle like to claim that Democrats are waging class warfare on tax and entitlement issues. Well, Mr. Speaker, the facts speak for themselves. The Republicans have launched an all-out attack on seniors and working families. When the top 20 percent in our country are getting 87 percent of the benefits of this supply-side scheme, and when the scheme actually increases taxes for the 40 percent of Americans who earn less than $27,000 per year, who is making war on whom?

This budget legislation makes the rich more comfortable and the poor more miserable. Only Mr. Freeze could produce a colder plan for seniors.

Mr. Speaker, we're not in Gotham City. We should be more focused on tax and entitlement equity, than on turning a cold shoulder to seniors and the less fortunate. But that's not what Republican tax-cut crusaders have proposed.

Republicans have voted to spend $2 billion on medical savings accounts [MSA's] to benefit the healthiest and wealthiest of our seniors. It's an experiment no less—and it comes at the same time that Republicans are proposing $115 billion in Medicare cuts to save the program.

The $115 billion that the budget resolution slashes from Medicare has little or nothing to do with saving the program. And, if we're not actually saving the program, why are we being asked to make cuts—why are we being asked to raise premiums for seniors and cut payments to hospitals, doctors, community health centers, and home health care?

Because Medicare once again has become the piggy bank to pay for tax breaks for the rich.

This budget not only protects corporate welfare and shields big defense contractors, it shamelessly sacrifices seniors for CEO's. The budget ax is being sharpened and Medicare is back on the chopping block—all because Republicans need to come up with the cash to balance the budget and give huge tax breaks to the wealthy. Now, we all applaud those who have had the good fortune to be wealthy and successful—but let's not make the rich richer at the expense of quality health care for seniors.

And make no mistake, the rich will get richer under the Republican plan—87 percent of the benefits of these tax and entitlement programs go to the top 20 percent in our country. On the tax cut alone, over 57 percent of this tax cut flows to families with incomes of more than $250,000, just 5 percent of all Americans. At the same time, this plan hikes taxes on the 40 percent of Americans who earn less than $27,000 per year.

Who will really pay the price for this Republican largesse? Who pays, our parents and grandparents that's who. These proud men and women have fought for this country, sacrificed for this country, and many survived the Great Depression and turned this country around and made it such an economic success.

Our seniors understand sacrifice. They struggled so that their children and grandchildren would have a better life, a more prosperous nation, and a more hopeful future.

But what will happen when Medicare and Medicaid are cut for working families. What additional burdens will middle-aged Americans

have to bear? If seniors are unable to cover the cost of their health care, whom will they turn to? their adult children, of course. And in each of these families the $64,000 question will be, do we pay for mom and dad's health care or do we pay to send the kids to college. No middle-aged parent should have to make that choice.

We should not insult our seniors' legacy of sacrifice by allowing the leadership of this Congress to sacrifice them—our parents and grandparents—just to give a tax cut to the rich and super rich.

It was wrong in 1980. It was wrong in 1995. And it is wrong today.

We can do better than this. Join me in standing up for fairness. Vote against this proposal. Let's not cut Medicare for seniors just to give huge tax breaks to the wealthiest Americans.

SPECTRUM PROVISIONS OF THE BUDGET

We should be highly concerned about the increasing emphasis placed upon spectrum auction revenue to assist in balancing the Federal budget.

Placing budgetary priorities foremost in FCC licensing decisions ultimately shortchanges the American public because spectrum allocation and licensing decisions must encompass a broad interpretation of the public interest, of which taxpayer interests are but one part.

A short-term, temporary injection of cash into the Federal Treasury for the purpose of achieving revenue goals for an arbitrary 5-year budget target serves budgetary interests, but it does not necessarily serve the broader public interest.

This auction is not going to raise the money that the CBO and OMB believe it will. Moreover, we will not see all of the rest of the money that has already been bid in previous auctions because we are flooding the market and making it awash with spectrum.

There are literally billions that have to be collected from small businesses, women-owned firms and minority-owned firms who bid for spectrum at the FCC believing that they were bidding on a scarce resource. These are entities who historically have had difficulty in gaining access to capital. What will happen to their hopes of raising the funds necessary to get into the marketplace and compete if the Federal Government rushes to make more frequencies available for bidding to some of the largest companies on the planet.

This spectrum auction proposal represents a departure from the principles of diversity that we built into the spectrum authority we granted the FCC as part of the 1993 budget. In 1993, we said that we wanted to see a democratization and diversity in the holding of FCC licenses. In this budget, after we finally saw minorities and women-owned businesses beginning to get access to this public resource, diversity and entrepreneurship is getting trumped by an increasing emphasis to simply let the deepest pockets bid on the spectrum. This is in direct contradiction to the message President Clinton delivered in California last week where he said that:

We must continue to expand opportunity. Full participation in our strong and growing economy is the best antidote to envy, despair, and racism. We must press forward to move millions more from poverty and welfare to work; to bring the spark of enterprise to inner cities * * * We should not stop trying to equalize economic opportunity.

Further, the idea that an auction in the year 2001 for spectrum from the broadcasters that will not be returned to the Government in 2007 is a very dubious way to raise money. I offered an amendment in committee to make this return of spectrum more likely by requiring after 2001 that all new TV's be digital capable. That amendment was not agreed to.

CHANGES FROM COMMERCE COMMITTEE BILL

The bill before us allows the FCC the discretion—rather than mandatory based upon a 95 percent digital TV household penetration test—an extension of the date by which TV broadcasters must return their so-called "analog" spectrum from 2007 to some later date.

The bill, however, takes away a Commerce Committee requirement for minimum bids for FCC auctions. A few weeks ago, licenses for wireless communications services [WCS] in 4 states sold at auction for a total of $4. This WCS auction was estimated by CBO to raise $1.8 billion and yet raised only $13 million. Why should we condone a firesale on the public's assets.

[From the CQ's House Action Reports]

CHANGES TO H.R. 2015, BALANCED BUDGET ACT

(By Joe Nyitray and Chuck Conlon)

The recommended rule automatically incorporates several changes into H.R. 2015, Balanced Budget Act, as reported by the Budget Committee.

SPECTRUM PROVISIONS

The rule modifies the bill's spectrum auction provisions to increase from $9.7 billion to $20.3 billion over five years the revenues that would be generated through sales of the radio broadcast spectrum. The increased revenue are accounted for by striking or relaxing numerous restrictions included in the bill on the FCC's ability to auction spectrum.

Among other changes, the rule strikes the bill's requirements that minimum bids equal two-thirds of previous CBO estimates, and that the FCC void spectrum auctions that fail to meet such minimums. It makes discretionary (rather than mandatory) FCC authority to extend the deadline of 2006 for referring the analog spectrum for television stations where more than 5% of the station's viewers continue to rely exclusively on over-the-air analog television signals; it requires the FCC to complete by the end of FY 2002 the bidding and assignment of licenses for returned analog television spectrum and spectrum used for UHF channels 60 through 69 (the bill only requires that bidding for such spectrum commence by July 1, 2001); it requires the FCC to "seek to assure" that low-power TV stations currently assigned to channels 60 through 69 be reassigned to a lower channel (the bill prohibits the auctioning of that spectrum unless such TV stations are reassigned to lower channels prior to such auctions); and it eliminates provisions that prohibit the reallocation of spectrum used by NASA for space research.

LOW-INCOME MEDICARE PREMIUM PROTECTION

The recommended rule adds an additional $1 billion to the $500 million already in the bill for Medicaid to help pay the Medicare Part B premium for low-income beneficiaries, thereby bringing the total up to $1.5 billion, the amount called for in the balanced budget agreement between the President and congressional leaders.

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today in support of H.R. 2015, the Fiscal Year 1998 Balanced Budget Act.

My priority as a Member of Congress has been to work toward implementation of a balanced Federal budget. Over the course of the past 3 years, the Republican Congress has reduced the deficit and cut Government spending by $43 billion. We have also raised the level of debate on this issue to the point that we are at today. It took Republican leadership to get it to this point in history as we are about to vote on a proposal to balance the Federal budget by 2002—the first balanced Federal budget since 1969.

I am pleased to stand in support of taking the next step forward towards securing a better future for our children and for our country. This budget sets reasonable priorities for Federal Government spending. And, later this week, we will vote on another proposal to return money to the pockets of hard-working American citizens.

This agreement balances our country's economic needs with our commitment to our veterans, seniors, students, and hard-working taxpayers, and allows generous spending on programs that are important to them.

The package also contains important reforms to the Medicare program, that serves so many older Americans in my District and millions of Americans across the country. Under this agreement, the Medicare part A trust fund will be preserved and protected for at least 10 years. We make these reforms while increasing spending on the program each year.

Seniors will be given greater choices in their health care coverage. For the first time, beneficiaries will have the option of enrolling in medical savings accounts. The range of preventive benefits will be expanded to include mammography, diabetes, and prostate and colorectal cancer screenings.

The budget reconciliation package makes other important changes to the delivery of health care. States will be provided with greater flexibility to manage the Medicaid Program and in turn, Federal outlays on Medicaid will be reduced by approximately $11.4 billion over the next 5 years. At the same time, States will share a $16 billion block grant to provide health insurance for currently uninsured children from low-income families.

H.R. 2015 also makes reasonable changes to existing welfare and immigration laws that were enacted in the 104th Congress. It maintains the core reforms to welfare, SSI, and food stamps, yet restores benefits to a vulnerable group of legal immigrants, the aged and disabled, who were receiving SSI at the time the laws were signed.

As more and more Americans enroll in managed care, it is critical to address some concerns that have been raised about the management of these programs. H.R. 2015 includes a number of important consumer protections for Medicare and Medicaid recipients enrolled in managed care. Included are proposals to prohibit a managed care plan from preventing a physician from advising a patient, and requires that the length of a Medicaid recipients hospital stay be determined by the patient and doctor, instead of a health management organization.

For these, and many other reasons, I am pleased to support this budget that makes

commonsense spending decisions, sets priorities, continues adequate levels of spending on important Federal programs to protect our health, safety, seniors, families, and children. This budget resolution is true to our commitment to balance the Federal budget and live within our means. It assures fiscal discipline and it takes power out of Washington and returns it to New Jersey and our neighborhoods.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 174, the bill is considered as read for amendment, and the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

□ 1715

MOTION TO RECOMMIT OFFERED BY MR. BROWN OF OHIO

Mr. BROWN of Ohio. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. DREIER). Is the gentleman opposed to the bill?

Mr. BROWN of Ohio. In its current form, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BROWN of Ohio moves to recommit the bill H.R. 2015 to the Committee on the Budget with instructions to report the same back to the House forthwith with the following amendment:

Strike subtitle F of title III and insert the following:

Subtitle F—Child Health Insurance Initiative Act of 1997

SEC. 3500. SHORT TITLE OF SUBTITLE.

This subtitle may be cited as the "Child Health Insurance Initiative Act of 1997".

CHAPTER 1—IMPROVED OUTREACH

SEC. 3501. GRANT PROGRAM TO PROMOTE OUTREACH EFFORTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, for each fiscal year beginning with fiscal year 1998 to the Secretary of Health and Human Services, $25,000,000 for grants to States, localities, and nonprofit entities to promote outreach efforts to enroll eligible children under the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and related programs.

(b) USE OF FUNDS.—Funds under this section may be used to reimburse States, localities, and nonprofit entities for additional training and administrative costs associated with outreach activities. Such activities include the following:

(1) USE OF A COMMON APPLICATION FORM FOR FEDERAL CHILD ASSISTANCE PROGRAMS.—Implementing use of a single application form (established by the Secretary and based on the model application forms developed under subsections (a) and (b) of section 6506 of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 701 note; 1396a note)) to determine the eligibility of a child or the child's family (as applicable) for assistance or benefits under the medicaid program and under other Federal child assistance programs (such as the temporary assistance for needy families program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the food stamp program, as defined in section 3(h) of the Food Stamp Act of 1977 (7 U.S.C. 2012(h)), and the State program for foster care maintenance payments and adoption assistance payments under part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.)).

(2) EXPANDING OUTSTATIONING OF ELIGIBILITY PERSONNEL.—Providing for the stationing of eligibility workers at sites, such as hospitals and health clinics, at which children receive health care or related services.

(c) APPLICATION, ETC.—Funding shall be made available under this section only upon the approval of an application by a State, locality, or nonprofit entity for such funding and only upon such terms and conditions as the Secretary specifies.

(d) ADMINISTRATION.—The Secretary may administer the grant program under this section through the identifiable administrative unit designated under section 509(a) of the Social Security Act (42 U.S.C. 709(a)) to promote coordination of medicaid and maternal and child health activities and other child health related activities.

CHAPTER 2—MEDIKIDS PROGRAM

SEC. 3521. STATE ENTITLEMENT TO PAYMENT FOR MEDIKIDS PROGRAM.

(a) IN GENERAL.—Each State that has a plan for a child health insurance program, or MediKids program, approved by the Secretary is entitled to receive, from amounts in the Treasury not otherwise appropriated and for each fiscal year beginning with fiscal year 1998, payment of the amounts provided under section 3523.

(b) APPLICATION.—The Secretary shall establish a procedure for the submittal and approval of plans for MediKids programs under this chapter. The Secretary shall approve the plan of a State for such a program if the Secretary determines that—

(1) the State is meeting the medicaid coverage requirements of section 3522(a), and

(2) the plan provides assurances satisfactory to the Secretary that the MediKids program will be conducted consistent with the applicable requirements of section 3522.

SEC. 3522. REQUIREMENTS FOR APPROVAL OF MEDIKIDS PROGRAM.

(a) ADEQUATE MEDICAID COVERAGE.—The medicaid coverage requirements of this subsection are the following:

(1) COVERAGE OF PREGNANT WOMEN AND CHILDREN AND INFANTS UP TO 185 PERCENT OF POVERTY.—The State has established 185 percent of the poverty line as the applicable percentage under section 1902(l)(2)(A) of the Social Security Act (42 U.S.C. 1396a(l)(2)(A)).

(2) COVERAGE OF CHILDREN UP TO 19 YEARS OF AGE.—The State provides, either through exercise of the option under section 1902(l)(1)(D) of such Act (42 U.S.C. 1396a(l)(1)(D)) or authority under section 1902(r)(2) of such Act (42 U.S.C. 1396a(r)(2)) for coverage under section 1902(l)(1)(D) of such Act of individuals under 19 years of age, regardless of date of birth.

(3) MAINTENANCE OF EFFORT.—

(A) MEDICAID.—Subject to subparagraph (B), the State—

(i) has not modified the eligibility requirements for children under the State medicaid plan, as in effect on January 1, 1997 in any manner that would have the effect of reducing the eligibility of children for coverage under such plan, and

(ii) will use the funds provided under this chapter to supplement and not supplant other Federal and State funds.

(B) WAIVER EXCEPTION.—Subparagraph (A) shall not apply to modifications made pursuant to an application for a waiver under section 1115 of the Social Security Act (42 U.S.C. 1315) submitted before January 1, 1997.

(b) COVERAGE OF UNINSURED CHILDREN.—

(1) IN GENERAL.—A MediKids program shall not provide benefits for children who are otherwise covered for such benefits under a medicaid plan or under a group health plan, health insurance coverage, or other health benefits coverage, but may expend funds for outreach and other activities in order to promote coverage under such plans.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a MediKids plan of a State to provide coverage for all near poverty level children described in paragraph (1) who are residing in the State.

(c) MEDICAID-EQUIVALENT BENEFITS.—Subject to subsection (d), a MediKids program shall provide benefits to eligible children for the equivalent items and services for which medical assistance is available (other than cost sharing) to children under the State's medicaid plan.

(d) PREMIUMS AND COST-SHARING.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), a MediKids program may—

(A) require the payment of premiums as a condition for coverage, but only for a covered child whose family income exceeds the poverty line;

(B) impose deductibles, coinsurance, copayments, and other forms of cost-sharing with respect to benefits under the program; and

(C) vary the levels of premiums, deductibles, coinsurance, copayments, and other cost-sharing based on a sliding scale related to the family income of the covered child.

(2) LIMITS ON PREMIUMS AND COST-SHARING.—The Secretary shall establish limits on the amount of cost-sharing expenses (including premiums, deductibles, coinsurance, copayments, and any other required financial contribution) that may be applied under the program. Such limits shall assure that total cost sharing expenses for children participating in such program are reasonable in relation to the income of their family (and taking into account the other types of expenses generally incurred by such families and family size) and that such cost sharing expenses do not unreasonably reduce access to the coverage or covered services provided under such program.

(3) NO COST SHARING FOR PREVENTIVE SERVICES.—A MediKids program may not impose deductibles, coinsurance, copayments, or similar cost sharing for preventive services.

SEC. 3523. PAYMENT AMOUNTS.

(a) TOTAL AMOUNT AVAILABLE.—

(1) IN GENERAL.—The total amount of funds that is available for payments under this chapter in any fiscal year is the base amount specified in paragraph (2) for the fiscal year reduced by the amount specified under paragraph (3) for the fiscal year.

(2) BASE AMOUNT.—The base amount specified under this paragraph for fiscal year 1998 and any subsequent fiscal year is $2,805,000,000.

(3) OFFSET FOR CERTAIN INCREASED MEDICAID EXPENDITURES.—

(A) IN GENERAL.—Subject to subparagraph (B), the amount specified under this paragraph for a fiscal year is the amount of aggregate additional Federal expenditures under made title XIX of the Social Security Act during the fiscal year that the Secretary estimates, before the beginning of the fiscal year, is attributable to imposition of the conditions described in section 3522(a). For

purposes of applying the previous sentence, any Federal expenditures that result from an increase in the applicable percentage under section 1902(l)(2)(A) of the Social Security Act above the percentage in effect as of June 25, 1997, or from any exercise of an option described in section 3522(a)(2) effected on or after such date, shall be treated as additional Federal expenditures attributable to the imposition of the conditions described in section 3522(a).

(B) ADJUSTMENT TO REFLECT ACTUAL EXPENDITURES.—After the end of each fiscal year, the Secretary shall determine the actual amount of the additional Federal expenditures described in subparagraph (A) for the fiscal year. The Secretary shall adjust the amount otherwise specified under subparagraph (A) for subsequent years to take into account the amount by which the amounts estimated for previous fiscal years under such subparagraph were greater, or less than, the actual amount of the expenditures for such years.

(b) ALLOTMENT AMONG STATES.—

(1) IN GENERAL.—The Secretary shall establish a formula for the allotment of the total amount of funds available under subsection (a) among the qualifying States for each fiscal year.

(2) BASIS.—The formula shall be based upon the Secretary's estimate of the number of near poverty level children in the State as a proportion of the total of such numbers for all the qualifying States.

(3) CARRYFORWARD.—If the Secretary does not pay to a State under subsection (c) in a fiscal year the amount of its allotment in that fiscal year under this subsection, the amount of its allotment under this subsection for the succeeding fiscal year shall be increased by the amount of such shortfall.

(c) PAYMENTS.—

(1) IN GENERAL.—From the allotment of each qualifying State under subsection (b) for a fiscal year, the Secretary shall pay to the State for each quarter in the fiscal year an amount equal to 75 percent of the total amount expended during such quarter to carry out the State's MediKids program.

(2) NOT COUNTING COST SHARING.—For purposes of paragraph (1), if a MediKids program imposes premiums for coverage or requires payment of deductibles, coinsurance, copayments, or other cost sharing, under rules of the Secretary, expenditures attributable to such premiums or cost sharing shall not be taken into account under paragraph (1).

(d) STATE ENTITLEMENT.—This chapter constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the payment to qualifying States of amounts provided under this section.

SEC. 3529. DEFINITIONS.

For purposes of this chapter:

(1) The term "child" means an individual under 19 years of age.

(2) The term "medicaid plan" means the plan of medical assistance of a State under title XIX of the Social Security Act.

(3) The term "MediKids program" means a child health insurance program of a State under this title.

(4) The term "near poverty level child" means a child the family income of which (as defined by the Secretary) is at least 100 percent, but less than 300 percent, of the poverty line.

(5) The term "poverty line" has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

(6) The term "qualifying State" means a State with a MediKids program for which a plan is submitted and approved under this title.

(7) The term "Secretary" means the Secretary of Health and Human Services .

(8) The term "State" means the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

CHAPTER 3—CONTINUATION OF MEDICAID ELIGIBILITY FOR DISABLED CHILDREN WHO LOSE SSI BENEFITS

SEC. 3531. CONTINUATION OF MEDICAID ELIGIBILITY FOR DISABLED CHILDREN WHO LOSE SSI BENEFITS.

(a) IN GENERAL.—Section 1902(a)(10)(A)(i)(II) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i)(II)) is amended by inserting "(or were being paid as of the date of enactment of section 211(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193)) and would continue to be paid but for the enactment of that section" after "title XVI".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to medical assistance furnished on or after July 1, 1997.

CHAPTER 4—ASSURING CHILDREN'S ACCESS TO HEALTH INSURANCE

SEC. 3541. GUARANTEED AVAILABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE TO UNINSURED CHILDREN.

(a) IN GENERAL.—Title XXVII of the Public Health Service Act, as added by section 111(a) of the Health Insurance Portability and Accountability Act of 1996, is amended by inserting after section 2741 the following new section:

"SEC. 2741A. GUARANTEED AVAILABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE TO UNINSURED CHILDREN.

"(a) GUARANTEED AVAILABILITY.—

"(1) IN GENERAL.—Subject to the succeeding subsections of this section, each health insurance issuer that offers health insurance coverage (as defined in section 2791(b)(1)) in the individual market in a State, in the case of an eligible child (as defined in subsection (b)) desiring to enroll in individual health insurance coverage—

"(A) may not decline to offer such coverage to, or deny enrollment of, such child;

"(B) either (i) does not impose any preexisting condition exclusion (as defined in section 2701(b)(1)(A)) with respect to such coverage, or (ii) imposes such a preexisting condition exclusion only to the extent such an exclusion may be imposed under section 2701(a) in the case of an individual who is not a late enrollee; and

"(C) shall provide that the premium for the coverage is determined in a manner so that the ratio of the premium for such eligible children to the premium for eligible individuals described in section 2741(b) does not exceed the ratio of the actuarial value of such coverage (calculated based on a standardized population and a set of standardized utilization and cost factors) for children to such actuarial value for such coverage for such eligible individuals.

"(2) SUBSTITUTION BY STATE OF ACCEPTABLE ALTERNATIVE MECHANISM.—The requirement of paragraph (1) shall not apply to health insurance coverage offered in the individual market in a State in which the State is implementing an acceptable alternative mechanism under section 2744.

"(b) ELIGIBLE CHILD DEFINED.—In this part, the term 'eligible child' means an individual born after September 30, 1983, who has not attained 19 years of age and—

"(1) who is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien otherwise permanently residing in the United States under color of law;

"(2) who is not eligible for coverage under (A) a group health plan, (B) part A or part B of title XVIII of the Social Security Act, or (C) a State plan under title XIX of such Act (or any successor program), and does not have other health insurance coverage; and

"(3) with respect to whom the most recent coverage (if any, within the 1-year period ending on the date coverage is sought under this section) was not terminated based on a factor described in paragraph (1) or (2) of section 2712(b) (relating to nonpayment of premiums or fraud).

For purposes of paragraph (2)(A), the term 'group health plan' does not include COBRA continuation coverage.

"(c) INCORPORATION OF CERTAIN PROVISIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), the provisions of subsections (c), (d), (e) and (f) (other than paragraph (1)) of section 2741 and section 2744 shall apply in relation to eligible children under subsection (a) in the same manner as they apply in relation to eligible individuals under section 2741(a).

"(2) SPECIAL RULES FOR ACCEPTABLE ALTERNATIVE MECHANISMS.—With respect to applying section 2744 under paragraph (1)—

"(A) the requirement in subsection (a)(1)(B) shall be applied instead of the requirement of section 2744(a)(1)(B);

"(B) the requirement in subsection (a)(1)(C) shall be applied instead of the requirement of section 2744(a)(1)(D); and

"(C) any deadline specified in such section shall be 1 year after the deadline otherwise specified.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take apply 1 year after the effective date for section 2741 of the Public Health Service Act (as provided under section 111(b)(1) of the Health Insurance Portability and Accountability Act of 1996).

AMENDMENT TO H.R. —, AS REPORTED

OFFERED BY MR. BARTON OF TEXAS

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

TITLE XI—BUDGET PROCESS ENFORCEMENT

SEC. 11001. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Balanced Budget Assurance Act of 1997".

(b) TABLE OF CONTENTS.—

TITLE XI—BUDGET PROCESS ENFORCEMENT

Sec. 11001. Short title and table of contents.
Sec. 11002. Definitions.
Subtitle A—Ensure That the Bipartisan Balanced Budget Agreement of 1997 Achieves Its Goal
Sec. 11101. Timetable.
Sec. 11102. Procedures to avoid sequestration or delay of new revenue reductions.
Sec. 11103. Effect on Presidents' budget submissions; point of order.
Sec. 11104. Deficit and revenue targets.
Sec. 11105. Direct spending caps.
Sec. 11106. Economic assumptions.
Sec. 11107. Revisions to deficit and revenue targets and to the caps for entitlements and other mandatory spending.
Subtitle B—Enforcement Provisions
Sec. 11201. Reporting excess spending.

Sec. 11202. Enforcing direct spending caps.
Sec. 11203. Sequestration rules.
Sec. 11204. Enforcing revenue targets.
Sec. 11205. Exempt programs and activities.
Sec. 11206. Special rules.
Sec. 11207. The current law baseline.
Sec. 11208. Limitations on emergency spending.

SEC. 11002. DEFINITIONS.

For purposes of this title:

(1) ELIGIBLE POPULATION.—The term "eligible population" shall mean those individuals to whom the United States is obligated to make a payment under the provisions of a law creating entitlement authority. Such term shall not include States, localities, corporations or other nonliving entities.

(2) SEQUESTER AND SEQUESTRATION.—The terms "sequester" and "sequestration" refer to or mean the cancellation of budgetary resources provided by discretionary appropriations or direct spending law.

(3) BREACH.—The term "breach" means, for any fiscal year, the amount (if any) by which outlays for that year (within a category of direct spending) is above that category's direct spending cap for that year.

(4) BASELINE.—The term "baseline" means the projection (described in section 11207) of current levels of new budget authority, outlays, receipts, and the surplus or deficit into the budget year and the outyears.

(5) BUDGETARY RESOURCES.—The term "budgetary resources" means new budget authority, unobligated balances, direct spending authority, and obligation limitations.

(6) DISCRETIONARY APPROPRIATIONS.—The term "discretionary appropriations" means budgetary resources (except to fund direct spending programs) provided in appropriation Acts. If an appropriation Act alters the level of direct spending or offsetting collections, that effect shall be treated as direct spending. Classifications of new accounts or activities and changes in classifications shall be made in consultation with the Committees on Appropriations and the Budget of the House of Representatives and the Senate and with CBO and OMB.

(7) DIRECT SPENDING.—The term "direct spending" means—

(A) budget authority provided by law other than appropriation Acts, including entitlement authority;

(B) entitlement authority; and

(C) the food stamp program.

If a law other than an appropriation Act alters the level of discretionary appropriations or offsetting collections, that effect shall be treated as direct spending.

(8) ENTITLEMENT AUTHORITY.—The term "entitlement authority" means authority (whether temporary or permanent) to make payments (including loans and grants), the budget authority for which is not provided for in advance by appropriation Acts, to any person or government if, under the provisions of the law containing such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such law.

(9) CURRENT.—The term "current" means, with respect to OMB estimates included with a budget submission under section 1105(a) of title 31 U.S.C., the estimates consistent with the economic and technical assumptions underlying that budget.

(10) ACCOUNT.—The term "account" means an item for which there is a designated budget account designation number in the President's budget.

(11) BUDGET YEAR.—The term "budget year" means the fiscal year of the Government that starts on the next October 1.

(12) CURRENT YEAR.—The term "current year" means, with respect to a budget year, the fiscal year that immediately precedes that budget year.

(13) OUTYEAR.—The term "outyear" means, with respect to a budget year, any of the fiscal years that follow the budget year.

(14) OMB.—The term "OMB" means the Director of the Office of Management and Budget.

(15) CBO.—The term "CBO" means the Director of the Congressional Budget Office.

(16) BUDGET OUTLAYS AND OUTLAYS.—The terms "budget outlays" and "outlays" mean, with respect to any fiscal year, expenditures of funds under budget authority during such year.

(17) BUDGET AUTHORITY AND NEW BUDGET AUTHORITY.—The terms "budget authority" and "new budget authority" have the meanings given to them in section 3 of the Congressional Budget and Impoundment Control Act of 1974.

(18) APPROPRIATION ACT.—The term "appropriation Act" means an Act referred to in section 105 of title 1 of the United States Code.

(19) CONSOLIDATED DEFICIT.—The term "consolidated deficit" means, with respect to a fiscal year, the amount by which total outlays exceed total receipts during that year.

(20) SURPLUS.—The term "surplus" means, with respect to a fiscal year, the amount by which total receipts exceed total outlays during that year.

(21) DIRECT SPENDING CAPS.—The term "direct spending caps" means the nominal dollar limits for entitlements and other mandatory spending pursuant to section 11105 (as modified by any revisions provided for in this Act).

Subtitle A—Ensure That the Bipartisan Balanced Budget Agreement of 1997 Achieves Its Goal

SEC. 11101. TIMETABLE.

On or before:	Action to be completed:
January 15	CBO economic and budget update.
First Monday in February.	President's budget update based on new assumptions.
August 1	CBO and OMB updates.
August 15	Preview report.
Not later than November 1 (and as soon as practical after the end of the fiscal).	OMB and CBO Analyses of Deficits, Revenues and Spending Levels and Projections for the Upcoming Year.
November 1–December 15	Congressional action to avoid sequestration.
December 15	OMB issues final (look back) report for prior year and preview for current year.
December 15	Presidential sequester order or order delaying new/additional revenues reductions scheduled to take effect pursuant to reconciliation legislation enacted in calendar year 1997.

SEC. 11102. PROCEDURES TO AVOID SEQUESTRATION OR DELAY OF NEW REVENUE REDUCTIONS.

(a) SPECIAL MESSAGE.—If the OMB Analysis of Actual Spending Levels and Projections for the Upcoming Year indicates that—

(1) deficits in the most recently completed fiscal year exceeded, or the deficits in the budget year are projected to exceed, the deficit targets in section 11104;

(2) revenues in the most recently completed fiscal year were less than, or revenues in the current year are projected to be less than, the revenue targets in section 11104; or

(3) outlays in the most recently completed fiscal year exceeded, or outlays in the current year are projected to exceed, the caps in section 11104;

the President shall submit to Congress with the OMB Analysis of Actual Spending Levels and Projections for the Upcoming Year a special message that includes proposed legislative changes to—

(A) offset the net deficit or outlay excess;

(B) offset any revenue shortfall; or

(C) revise the deficit or revenue targets or the outlay caps contained in this Act;

through any combination of—

(i) reductions in outlays;

(ii) increases in revenues; or

(iii) increases in the deficit targets or expenditure caps, or reductions in the revenue targets, if the President submits a written determination that, because of economic or programmatic reasons, none of the variances from the balanced budget plan should be offset.

(b) INTRODUCTION OF THE PRESIDENT'S PACKAGE.—Not later than November 15, the message from the President required pursuant to subsection (a) shall be introduced as a joint resolution in the House of Representatives or the Senate by the chairman of its Committee on the Budget. If the chairman fails to do so, after November 15, the joint resolution may be introduced by any Member of that House of Congress and shall be referred to the Committee on the Budget of that House.

(c) HOUSE BUDGET COMMITTEE ACTION.—The Committee on the Budget of the House of Representatives shall, by November 15, report a joint resolution containing—

(1) the recommendations in the President's message, or different policies and proposed legislative changes than those contained in the message of the President, to ameliorate or eliminate any excess deficits or expenditures or any revenue shortfalls, or

(2) any changes to the deficit or revenue targets or expenditure caps contained in this Act, except that any changes to the deficit or revenue targets or expenditure caps cannot be greater than the changes recommended in the message submitted by the President.

(d) PROCEDURE IF THE COMMITTEES ON THE BUDGET OF THE HOUSE OF REPRESENTATIVES OR SENATE FAILS TO REPORT REQUIRED RESOLUTION.—

(1) AUTOMATIC DISCHARGE OF COMMITTEES ON THE BUDGET OF THE HOUSE.—If the Committee on the Budget of the House of Representatives fails, by November 20, to report a resolution meeting the requirements of subsection (c), the committee shall be automatically discharged from further consideration of the joint resolution reflecting the President's recommendations introduced pursuant to subsection (a), and the joint resolution shall be placed on the appropriate calendar.

(2) CONSIDERATION OF DISCHARGE RESOLUTION IN THE HOUSE.—If the Committee has been discharged under paragraph (1) above, any Member may move that the House of Representatives consider the resolution. Such motion shall be highly privileged and not debatable. It shall not be in order to consider any amendment to the resolution except amendments which are germane and which do not change the net deficit impact of the resolution.

(e) CONSIDERATION OF JOINT RESOLUTION IN THE HOUSE.—Consideration of resolution reported pursuant to subsection (c) or (d) shall be pursuant to the procedures set forth in section 305 of the Congressional Budget Act of 1974 and subsection (d).

(f) TRANSMITTAL TO SENATE.—If a joint resolution passes the House of Representatives pursuant to subsection (e), the Clerk of the House of Representatives shall cause the resolution to be engrossed, certified, and transmitted to the Senate within 1 calendar day of the day on which the resolution is passed. The resolution shall be referred to the Senate Committee on the Budget.

(g) REQUIREMENTS FOR SPECIAL JOINT RESOLUTION IN THE SENATE.—The Committee on the Budget of the Senate shall report not later than December 1—

(1) a joint resolution reflecting the message of the President; or

(2) the joint resolution passed by the House of Representatives, with or without amendment; or

(3) a joint resolution containing different policies and proposed legislative changes than those contained in either the message of the President or the resolution passed by the House of Representatives, to eliminate all or part of any excess deficits or expenditures or any revenue shortfalls, or

(4) any changes to the deficit or revenue targets, or to the expenditure caps, contained in this Act, except that any changes to the deficit or revenue targets or expenditure caps cannot be greater than the changes recommended in the message submitted by the President.

(h) PROCEDURE IF THE SENATE BUDGET COMMITTEE FAILS TO REPORT REQUIRED RESOLUTION.—

(1) AUTOMATIC DISCHARGE OF SENATE BUDGET COMMITTEE.—In the event that the Committee on the Budget of the Senate fails, by December 1, to report a resolution meeting the requirements of subsection (g), the committee shall be automatically discharged from further consideration of the joint resolution reflecting the President's recommendations introduced pursuant to subsection (a) and of the resolution passed by the House of Representatives, and both joint resolutions shall be placed on the appropriate calendar.

(2) CONSIDERATION OF DISCHARGE RESOLUTION IN THE SENATE.—(A) If the Committee has been discharged under paragraph (1), any member may move that the Senate consider the resolution. Such motion shall be highly privileged and not debatable. It shall not be in order to consider any amendment to the resolution except amendments which are germane and which do not change the net deficit impact of the resolution.

(B) Consideration of resolutions reported pursuant to subsections (c) or (d) shall be pursuant to the procedures set forth in section 305 of the Congressional Budget Act of 1974 and subsection (d).

(C) If the joint resolution reported by the Committees on the Budget pursuant to subsection (c) or (g) or a joint resolution discharged in the House of Representatives or the Senate pursuant to subsection (d)(1) or (h)(1) would eliminate less than—

(i) the entire amount by which actual or projected deficits exceed, or revenues fall short of, the targets in this Act; or

(ii) the entire amount by which actual or projected outlays exceed the caps contained in this Act;

then the Committee on the Budget of the Senate shall report a joint resolution, raising the deficit targets or outlay caps, or reducing the revenue targets for any year in which actual or projected spending, revenues or deficits would not conform to the deficit and revenue targets or expenditure caps in this Act.

(k) CONFERENCE REPORTS SHALL FULLY ADDRESS DEFICIT EXCESS.—It shall not be in order in the House of Representatives or the Senate to consider a conference report on a joint resolution to eliminate all or part of any excess deficits or outlays or to eliminate all or part of any revenue shortfall compared to the deficit and revenue targets and the expenditure caps contained in this Act, unless—

(1) the joint resolution offsets the entire amount of any overage or shortfall; or

(2) the House of Representatives and Senate both pass the joint resolution reported pursuant to subsection (j)(2).

The vote on any resolution reported pursuant to subsection (j)(2) shall be solely on the subject of changing the deficit or revenue targets or the expenditure limits in this Act.

SEC. 11103. EFFECT ON PRESIDENTS' BUDGET SUBMISSIONS; POINT OF ORDER.

(a) BUDGET SUBMISSION.—Any budget submitted by the President pursuant to section 1105(a) of title 31, United States Code, for each of fiscal years 1998 through 2007 shall be consistent with the spending, revenue, and deficit levels established in sections 11104 and 11105 or it shall recommend changes to those levels

(b) POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider any concurrent resolution on the budget unless it is consistent with the spending, revenue, and deficit levels established in sections 11104 and 11105.

SEC. 11104. DEFICIT AND REVENUE TARGETS.

(a) CONSOLIDATED DEFICIT (OR SURPLUS) TARGETS.—For purposes of sections 11102 and 11107, the consolidated deficit targets shall be—

(1) for fiscal year 1998, $90,500,000,000;

(2) for fiscal year 1999, $89,700,000,000;

(3) for fiscal year 2000, $83,000,000,000;

(4) for fiscal year 2001, $53,300,000,000; and

(5) for fiscal year 2002, there shall be a surplus of not less than $1,400,000,000.

(b) CONSOLIDATED REVENUE TARGETS.—For purposes of sections 11102, 11107, 11201, and 11204, the consolidated revenue targets shall be—

(1) for fiscal year 1998, $1,601,800,000,000;

(2) for fiscal year 1999, $1,664,200,000,000;

(3) for fiscal year 2000, $1,728,100,000,000;

(4) for fiscal year 2001, $1,805,100,000,000; and

(5) for fiscal year 2002, $1,890,400,000,000.

SEC. 11105. DIRECT SPENDING CAPS.

(a) IN GENERAL.—Effective upon submission of the report by OMB pursuant to subsection (c), direct spending caps shall apply to all entitlement authority except for undistributed offsetting receipts and net interest outlays. For purposes of enforcing direct spending caps under this Act, each separate program shown in the table set forth in subsection (d) shall be deemed to be a category.

(b) BUDGET COMMITTEE REPORTS.—Within 30 days after enactment of this Act, the Budget Committees of the House of Representatives and the Senate shall file with their respective Houses identical reports containing account numbers and spending levels for each specific category.

(c) REPORT BY OMB.—Within 30 days after enactment of this Act, OMB shall submit to the President and each House of Congress a report containing account numbers and spending limits for each specific category.

(d) CONTENTS OF REPORTS.—All direct spending accounts not included in these reports under separate categories shall be included under the heading "Other Entitlements and Mandatory Spending". These reports may include adjustments among the caps set forth in this Act as required below, however the aggregate amount available under the "Total Entitlements and Other Mandatory Spending" cap shall be identical in each such report and in this Act and shall be deemed to have been adopted as part of this Act. Each such report shall include the actual amounts of the caps for each year of fiscal years 1998 through 2002 consistent with the concurrent resolution on the budget for FY 1998 for each of the following categories:

Earned Income Tax Credit,

Family Support,

Federal retirement:

Civilian/other,

Military,

Medicaid,

Medicare,

Social security,

Supplemental security income,

Unemployment compensation,

Veterans' benefits,

Medicare,

Other entitlements and mandatory spending, and

Aggregate entitlements and other mandatory spending.

(e) ADDITIONAL SPENDING LIMITS.—Legislation enacted subsequent to this Act may include additional caps to limit spending for specific programs, activities, or accounts with these categories. Those additional caps (if any) shall be enforced in the same manner as the limits set forth in such joint explanatory statement.

SEC. 11106. ECONOMIC ASSUMPTIONS.

Subject to periodic reestimation based on changed economic conditions or changes in eligible population, determinations of the direct spending caps under section 11105, any breaches of such caps, and actions necessary to remedy such breaches shall be based upon the economic assumptions set forth in the joint explanatory statement of managers accompanying the concurrent resolution on the budget for fiscal year 1998 (House Concurrent Resolution 84, 105th Congress).

SEC. 11107. REVISIONS TO DEFICIT AND REVENUE TARGETS AND TO THE CAPS FOR ENTITLEMENTS AND OTHER MANDATORY SPENDING.

(a) AUTOMATIC ADJUSTMENTS TO DEFICIT AND REVENUE TARGETS AND TO CAPS FOR ENTITLEMENTS AND OTHER MANDATORY SPENDING.—When the President submits the budget under section 1105(a) of title 31, United States Code, for any year, OMB shall calculate (in the order set forth below), and the budget and reports shall include, adjustments to the deficit and revenue targets, and to the direct spending caps (and those limits as cumulatively adjusted) for the current year, the budget year, and each outyear, to reflect the following:

(1) CHANGES TO REVENUE TARGETS.—

(A) CHANGES IN GROWTH.—For Federal revenues and deficits under laws and policies enacted or effective before July 1, 1997, growth adjustment factors shall equal the ratio between the level of year-over-year growth measured for the fiscal year most recently completed and the applicable estimated level for that year as described in section 11105.

(B) CHANGES IN INFLATION.—For Federal revenues and deficits under laws and policies enacted or effective before July 1, 1997, inflation adjustment factors shall equal the ratio between the level of year-over-year growth measured for the fiscal year most recently completed and the applicable estimated level for that year as described in section 11105.

(2) ADJUSTMENTS TO DIRECT SPENDING CAPS.—

(A) CHANGES IN CONCEPTS AND DEFINITIONS.—The adjustments produced by changes in concepts and definitions shall

equal the baseline levels of new budget authority and outlays using up-to-date concepts and definitions minus those levels using the concepts and definitions in effect before such changes. Such changes in concepts and definitions may only be made in consultation with the Committees on Appropriations, the Budget, and Government Reform and Oversight and Governmental Affairs of the House of Representatives and the Senate.

(B) CHANGES IN NET OUTLAYS.—Changes in net outlays for all programs and activities exempt from sequestration under section 11204.

(C) CHANGES IN INFLATION.—For direct spending under laws and policies enacted or effective on or before July 1, 1997, inflation adjustment factors shall equal the ratio between the level of year-over-year inflation measured for the fiscal year most recently completed and the applicable estimated level for that years as described in section 11105 (relating to economic assumptions). For direct spending under laws and policies enacted or effective after July 1, 1997, there shall be no adjustment to the direct spending caps (for changes in economic conditions including inflation, nor for changes in numbers of eligible beneficiaries) unless—

(i) the Act or the joint explanatory statement of managers accompanying such Act providing new direct spending includes economic projections and projections of numbers of beneficiaries; and

(ii) such Act specifically provides for automatic adjustments to the direct spending caps in section 11105 based on those projections.

(D) CHANGES IN ELIGIBLE POPULATIONS.—For direct spending under laws and policies enacted or effective on or before July 1, 1997, the basis for adjustments under this section shall be the same as the projections underlying Table A-4, CBO Baseline Projections of Mandatory Spending, Including Deposit Insurance (by fiscal year, in billions of dollars), published in An Analysis of the President's Budgetary Proposals for Fiscal Year 1998, March 1997, page 53. For direct spending under laws and policies enacted or effective after July 1, 1997, there shall be no adjustment to the direct spending caps for changes in numbers of eligible beneficiaries unless—

(i) the Act or the joint explanatory statement of managers accompanying such Act providing new direct spending includes economic projections and projections of numbers of beneficiaries; and

(ii) such Act specifically provides for automatic adjustments to the direct spending caps in section 11105 based on those projections.

(E) INTRA-BUDGETARY PAYMENTS.—From discretionary accounts to mandatory accounts. The baseline and the discretionary spending caps shall be adjusted to reflect those changes.

(c) CHANGES TO DEFICIT TARGETS.—The deficit targets in section 11104 shall be adjusted to reflect changes to the revenue targets or changes to the caps for entitlements and other mandatory spending pursuant to subsection (a).

(d) PERMISSIBLE REVISIONS TO DEFICIT AND REVENUE TARGETS AND DIRECT SPENDING CAPS.—Deficit and revenue targets and direct spending caps as enacted pursuant to sections 11104 and 11105 may be revised as follows: Except as required pursuant to section 11105(a), direct spending caps may only be amended by recorded vote. It shall be a matter of highest privilege in the House of Representatives and the Senate for a Member of the House of Representatives or the Senate to insist on a recorded vote solely on the question of amending such caps. It shall not be in order for the Committee on Rules of the House of Representatives to report a resolution waiving the provisions of this subsection. This subsection may be waived in the Senate only by an affirmative vote of three-fifths of the Members duly chosen and sworn.

Subtitle B—Enforcement Provisions

SEC. 11201. REPORTING EXCESS SPENDING.

(a) ANALYSIS OF ACTUAL DEFICIT, REVENUE, AND SPENDING LEVELS.—As soon as practicable after any fiscal year, OMB shall compile a statement of actual deficits, revenues, and direct spending for that year. The statement shall identify such spending by categories contained in section 11105.

(b) ESTIMATE OF NECESSARY SPENDING REDUCTION.—Based on the statement provided under subsection (a), the OMB shall issue a report to the President and the Congress on December 15 of any year in which such statement identifies actual or projected deficits, revenues, or spending in the current or immediately preceding fiscal years in violation of the revenue targets or direct spending caps in section 11104 or 11105, by more than one percent of the applicable total revenues or direct spending for such year. The report shall include:

(1) All instances in which actual direct spending has exceeded the applicable direct spending cap.

(2) The difference between the amount of spending available under the direct spending caps for the current year and estimated actual spending for the categories associated with such caps.

(3) The amounts by which direct spending shall be reduced in the current fiscal year so that total actual and estimated direct spending for all cap categories for the current and immediately preceding fiscal years shall not exceed the amounts available under the direct spending caps for such fiscal years.

(4) The amount of excess spending attributable solely to changes in inflation or eligible populations.

SEC. 11202. ENFORCING DIRECT SPENDING CAPS.

(a) PURPOSE.—This subtitle provides enforcement of the direct spending caps on categories of spending established pursuant to section 11105. This section shall apply for any fiscal year in which direct spending exceeds the applicable direct spending cap.

(b) GENERAL RULES.—

(1) ELIMINATING A BREACH.—Each non-exempt account within a category shall be reduced by a dollar amount calculated by multiplying the baseline level of sequestrable budgetary resources in that account at that time by the uniform percentage necessary to eliminate a breach within that category.

(2) PROGRAMS, PROJECTS, OR ACTIVITIES.—Except as otherwise provided, the same percentage sequestration shall apply to all programs, projects and activities within a budget account.

(3) INDEFINITE AUTHORITY.—Except as otherwise provided, sequestration in accounts for which obligations are indefinite shall be taken in a manner to ensure that obligations in the fiscal year of a sequestration and succeeding fiscal years are reduced, from the level that would actually have occurred, by the applicable sequestration percentage or percentages.

(4) CANCELLATION OF BUDGETARY RESOURCES.—Budgetary resources sequestered from any account other than an trust, special or revolving fund shall revert to the Treasury and be permanently canceled.

(5) IMPLEMENTING REGULATIONS.—Notwithstanding any other provision of law, administrative rules or similar actions implementing any sequestration shall take effect within 30 days after that sequestration.

SEC. 11203. SEQUESTRATION RULES.

(a) GENERAL RULES.—For programs subject to direct spending caps:

(1) TRIGGERING OF SEQUESTRATION.—Sequestration is triggered if total direct spending subject to the caps exceeds or is projected to exceed the aggregate cap for direct spending for the current or immediately preceding fiscal year.

(2) CALCULATION OF REDUCTIONS.—Sequestration shall reduce spending under each separate direct spending cap in proportion to the amounts each category of direct spending exceeded the applicable cap.

(3) UNIFORM PERCENTAGES.—In calculating the uniform percentage applicable to the sequestration of all spending programs or activities within each category, or the uniform percentage applicable to the sequestration of nonexempt direct spending programs or activities, the sequestrable base for direct spending programs and activities is the total level of outlays for the fiscal year for those programs or activities in the current law baseline.

(4) PERMANENT SEQUESTRATION OF DIRECT SPENDING.—Obligations in sequestered direct spending accounts shall be reduced in the fiscal year in which a sequestration occurs and in all succeeding fiscal years. Notwithstanding any other provision of this section, after the first direct spending sequestration, any later sequestration shall reduce direct spending by an amount in addition to, rather than in lieu of, the reduction in direct spending in place under the existing sequestration or sequestrations.

(5) SPECIAL RULE.—For any direct spending program in which—

(A) outlays pay for entitlement benefits;

(B) a current-year sequestration takes effect after the 1st day of the budget year;

(C) that delay reduces the amount of entitlement authority that is subject to sequestration in the budget; and

(D) the uniform percentage otherwise applicable to the budget-year sequestration of a program or activity is increased due to the delay;

then the uniform percentage shall revert to the uniform percentage calculated under paragraph (3) when the budget year is completed.

(6) INDEXED BENEFIT PAYMENTS.—If, under any entitlement program—

(A) benefit payments are made to persons or governments more frequently than once a year; and

(B) the amount of entitlement authority is periodically adjusted under existing law to reflect changes in a price index (commonly called "cost of living adjustments");

sequestration shall first be applied to the cost of living adjustment before reductions are made to the base benefit. For the first fiscal year to which a sequestration applies, the benefit payment reductions in such programs accomplished by the order shall take effect starting with the payment made at the beginning of January following a final sequester. For the purposes of this subsection, veterans' compensation shall be considered a program that meets the conditions of the preceding sentence.

(7) LOAN PROGRAMS.—For all loans made, extended, or otherwise modified on or after any sequestration under loan programs subject to direct spending caps—

(A) the sequestrable base shall be total fees associated with all loans made extended or otherwise modified on or after the date of sequestration; and

(B) the fees paid by borrowers shall be increased by a uniform percentage sufficient to produce the dollar savings in such loan programs for the fiscal year or years of the sequestrations required by this section.

Notwithstanding any other provision of law, in any year in which a sequestration is in effect, all subsequent fees shall be increased by the uniform percentage and all proceeds from such fees shall be paid into the general fund of the Treasury.

(8) INSURANCE PROGRAMS.—Any sequestration of a Federal program that sells insurance contracts to the public (including the Federal Crop Insurance Fund, the National Insurance Development Fund, the National Flood Insurance fund, insurance activities of the Overseas Private Insurance Corporation, and Veterans' Life insurance programs) shall be accomplished by increasing premiums on contracts entered into extended or otherwise modified, after the date a sequestration order takes effect by the uniform sequestration percentage. Notwithstanding any other provision of law, for any year in which a sequestration affecting such programs is in effect, subsequent premiums shall be increased by the uniform percentage and all proceeds from the premium increase shall be paid from the insurance fund or account to the general fund of the Treasury.

(9) STATE GRANT FORMULAS.—For all State grant programs subject to direct spending caps—

(A) the total amount of funds available for all States shall be reduced by the amount required to be sequestered; and

(B) if States are projected to receive increased funding in the budget year compared to the immediately preceding fiscal year, sequestration shall first be applied to the estimated increases before reductions are made compared to actual payments to States in the previous year—

(i) the reductions shall be applied first to the total estimated increases for all States; then

(ii) the uniform reduction shall be made from each State's grant; and

(iii) the uniform reduction shall apply to the base funding levels available to states in the immediately preceding fiscal year only to the extent necessary to eliminate any remaining excess over the applicable direct spending cap.

(10) SPECIAL RULE FOR CERTAIN PROGRAMS.—Except matters exempted under section 11204 and programs subject to special rules set forth under section 11205 and notwithstanding any other provisions of law, any sequestration required under this Act shall reduce benefit levels by an amount sufficient to eliminate all excess spending identified in the report issued pursuant to section 11201, while maintaining the same uniform percentage reduction in the monetary value of benefits subject to reduction under this subsection.

(b) WITHIN-SESSION SEQUESTER.—If a bill or resolution providing direct spending for the current year is enacted before July 1 of that fiscal year and causes a breach within any direct spending cap for that fiscal year, 15 days later there shall be a sequestration to eliminate that breach within that cap.

SEC. 11204. ENFORCING REVENUE TARGETS.

(a) PURPOSE.—This section enforces the revenue targets established pursuant to section 11104. This section shall apply for any year in which actual revenues were less than the applicable revenue target in the preceding fiscal year or are projected to be less than the applicable revenue target in the current year.

(b) ESTIMATE OF NECESSITY TO SUSPEND NEW REVENUE REDUCTIONS.—Based on the statement provided under section 11201(a), OMB shall issue a report to the President and the Congress on December 15 of any year in which such statement identifies actual or projected revenues in the current or immediately preceding fiscal years lower than the applicable revenue target in section 11104, as adjusted pursuant to section 11106, by more than 1 percent of the applicable total revenue target for such year. The report shall include—

(1) all laws and policies described in subsection (c) which would cause revenues to decline in the calendar year which begins January 1 compared to the provisions of law in effect on December 15;

(2) the amounts by which revenues would be reduced by implementation of the provisions of law described in paragraph (1) compared to provisions of law in effect on December 15; and

(3) whether delaying implementation of the provisions of law described in paragraph (1) would cause the total for revenues in the projected revenues in the current fiscal year and actual revenues in the immediately preceding fiscal year to equal or exceed the total of the targets for the applicable years.

(c) NO CREDITS, DEDUCTIONS, EXCLUSIONS, PREFERENTIAL RATE OF TAX, ETC.—If any provision of the Internal Revenue Code of 1986 added by the Revenue Reconciliation Act of 1997 would (but for this section) first take effect in a tax benefit suspension year, such provision shall not take effect until the first calendar year which is not a tax benefit suspension year.

END OF SUSPENSION.—If the OMB report issued under section (a) following a tax benefit suspension your indicates that the total of revenues projected in the current fiscal year and actual revenues in he immediately proceeding year will equal or exceed the applicable targets the President shall sign an order ending the delayed phase-in of new tax cuts effective January 1. Such order shall provide that the new tax cuts shall take effect as if the provisions of this section had not taken effect.

(e) SUSPENSION OF BENEFITS BEING PHASED IN.—If, under any provision of the Internal Revenue Code of 1986, there is an increase in any benefit which would (but for this section) take effect with respect to a tax benefit suspension year, in lieu of applying subsection (c)—

(1) any increase in the benefit under such section with respect to such year and each subsequent calendar year shall be delayed 1 calendar year, and

(2) the level of benefit under such section with respect to the prior calendar year shall apply to such tax benefit suspension year.

(f) PERCENTAGE SUSPENSION WHERE FULL SUSPENSION UNNECESSARY TO ACHIEVE REVENUE TARGET.—If the application of subsections (c), (d), and (e) to any tax benefit suspension year would (but for this subsection) (1) all laws and policies described in subsection (c) which would cause revenues to decline in the calendar year which begins January 1 compared to the provisions of law in effect on December 15; subsections (c), (d), and (e) shall be applied such that the amount of each benefit which is denied is only the percentage of such benefit which is necessary to result in revenues equal to such target. Such percentage shall be determined by OMB, and the same percentage shall apply to such benefits.

(g) TAX BENEFIT SUSPENSION YEAR.—For purposes of this section, the term "tax benefit suspension year" means any calendar year if the statement issued under subsection (b) during the preceding calendar year indicates that—

(1) for the fiscal year ending in such preceding calendar year, actual revenues were lower than the applicable revenue target in section 11104, as adjusted pursuant to section 11106, for such fiscal year by more than 1 percent of such target, or

(2) for the fiscal year beginning in such preceding calendar year, projected revenues (determined without regard to this section) are estimated to be lower than the applicable revenue target in section 11104, as adjusted pursuant to section 11106, for such fiscal year by more than 1 percent of such target.

SEC. 11205. EXEMPT PROGRAMS AND ACTIVITIES.

The following budget accounts, activities within accounts, or income shall be exempt from sequestration—

(1) net interest;

(2) all payments to trust funds from excise taxes or other receipts or collections properly creditable to those trust funds;

(3) offsetting receipts and collections;

(4) all payments from one Federal direct spending budget account to another Federal budget account;

(5) all intragovernmental funds including those from which funding is derived primarily from other Government accounts;

(6) expenses to the extent they result from private donations, bequests, or voluntary contributions to the Government;

(7) nonbudgetary activities, including but not limited to—

(A) credit liquidating and financing accounts;

(B) the Pension Benefit Guarantee Corporation Trust Funds;

(C) the Thrift Savings Fund;

(D) the Federal Reserve System; and

(E) appropriations for the District of Columbia to the extent they are appropriations of locally raised funds;

(8) payments resulting from Government insurance, Government guarantees, or any other form of contingent liability, to the extent those payments result from contractual or other legally binding commitments of the Government at the time of any sequestration;

(9) the following accounts, which largely fulfill requirements of the Constitution or otherwise make payments to which the Government is committed—

Bureau of Indian Affairs, miscellaneous trust funds, tribal trust funds (14-9973-0-7-999);

Claims, defense;

Claims, judgments and relief act (20-1895-0-1-806);

Compact of Free Association, economic assistance pursuant to Public Law 99-658 (14-0415-0-1-806);

Compensation of the President (11-0001-0-1-802);

Customs Service, miscellaneous permanent appropriations (20-9992-0-2-852);

Eastern Indian land claims settlement fund (14-2202-0-1-806);

Farm Credit System Financial Assistance Corporation, interest payments (20-1850-0-1-351);

Internal Revenue collections of Puerto Rico (20-5737-0-2-852);

Payments of Vietnam and USS Pueblo prisoner-of-war claims (15-0104-0-1-153):

Payments to copyright owners (03-5175-0-2-376);

Salaries of Article III judges (not including cost of living adjustments);

Soldier's and Airman's Home, payment of claims (84-8930-0-7-705);

Washington Metropolitan Area Transit Authority, interest payments (46-0300-0-1-401);

(10) the following noncredit special, revolving, or trust-revolving funds—

Exchange Stabilization Fund (20-4444-0-3-155); and

Foreign Military Sales trust fund (11-82232-0-7-155).

(j) OPTIONAL EXEMPTION OF MILITARY PERSONNEL.—

(1) The President may, with respect to any military personnel account, exempt that account from sequestration or provide for a lower uniform percentage reduction that would otherwise apply.

(2) The President may not use the authority provided by paragraph (1) unless he notifies the Congress of the manner in which such authority will be exercised on or before the initial snapshot date for the budget year.

SEC. 11206. SPECIAL RULES.

(a) CHILD SUPPORT ENFORCEMENT PROGRAM.—Any sequestration order shall accomplish the full amount of any required reduction in payments under sections 455 and 458 of the Social Security Act by reducing the Federal matching rate for State administrative costs under the program, as specified (for the fiscal year involved) in section 455(a) of such Act, to the extent necessary to reduce such expenditures by that amount.

(b) COMMODITY CREDIT CORPORATION.—

(1) EFFECTIVE DATE.—For the Commodity Credit Corporation, the date on which a sequestration order takes effect in a fiscal year shall vary for each crop of a commodity. In general, the sequestration order shall take effect when issued, but for each crop of a commodity for which 1-year contracts are issued as an entitlement, the sequestration order shall take effect with the start of the sign-up period for that crop that begins after the sequestration order is issued. Payments for each contract in such a crop shall be reduced under the same terms and conditions.

(2) DAIRY PROGRAM.—

(A) As the sole means of achieving any reduction in outlays under the milk price-support program, the Secretary of Agriculture shall provide for a reduction to be made in the price received by producers for all milk in the United States and marketed by producers for commercial use.

(B) That price reduction (measured in cents per hundred-weight of milk marketed) shall occur under subparagraph (A) of section 201(d)(2) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(2)(A)), shall begin on the day any sequestration order is issued, and shall not exceed the aggregate amount of the reduction in outlays under the milk price-support program, that otherwise would have been achieved by reducing payments made for the purchase of milk or the products of milk under this subsection during that fiscal year.

(3) EFFECT OF DELAY.—For purposes of subsection (b)(1), the sequestrable base for Commodity Credit Corporation is the current-year level of gross outlays resulting from new budget authority that is subject to reduction under paragraphs (1) and (2).

(4) CERTAIN AUTHORITY NOT TO BE LIMITED.—Nothing in this Act shall restrict the Corporation in the discharge of its authority and responsibility as a corporation to buy and sell commodities in world trade, or limit or reduce in any way any appropriation that provides the Corporation with funds to cover its realized losses.

(c) EARNED INCOME TAX CREDIT.—

(1) The sequestrable base for earned income tax credit program is the dollar value of all current year benefits to the entire eligible population.

(2) In the event sequestration is triggered to reduce earned income tax credits, all earned income tax credits shall be reduced, whether or not such credits otherwise would result in cash payments to beneficiaries, by a uniform percentage sufficient to produce the dollar savings required by the sequestration.

(d) REGULAR AND EXTENDED UNEMPLOYMENT COMPENSATION.—

(1) A State may reduce each weekly benefit payment made under the regular and extended unemployment benefit programs for any week of unemployment occurring during any period with respect to which payments are reduced under any sequestration order by a percentage not to exceed the percentage by which the Federal payment to the State is to be reduced for such week as a result of such order.

(2) A reduction by a State in accordance with paragraph (1) shall not be considered as a failure to fulfill the requirements of section 3304(a)(11) of the Internal Revenue Code of 1986.

(e) FEDERAL EMPLOYEES HEALTH BENEFITS FUND.— For the Federal Employees Health Benefits Fund, a sequestration order shall take effect with the next open season. The sequestration shall be accomplished by annual payments from that Fund to the General Fund of the Treasury. Those annual payments shall be financed solely by charging higher premiums. The sequestrable base for the Fund is the current-year level of gross outlays resulting from claims paid after the sequestration order takes effect.

(f) FEDERAL HOUSING FINANCE BOARD.—Any sequestration of the Federal Housing Board shall be accomplished by annual payments (by the end of each fiscal year) from that Board to the general fund of the Treasury, in amounts equal to the uniform sequestration percentage for that year times the gross obligations of the Board in that year.

(g) FEDERAL PAY.—

(1) IN GENERAL.— New budget authority to pay Federal personnel from direct spending accounts shall be reduced by the uniform percentage calculated under section 11203(c)(3), as applicable, but no sequestration order may reduce or have the effect of reducing the rate of pay to which any individual is entitled under any statutory pay system (as increased by any amount payable under section 5304 of title 5, United States Code, or any increase in rates of pay which is scheduled to take effect under section 5303 of title 5, United States Code, section 1109 of title 37, United States Code, or any other provision of law.

(2) DEFINITIONS.—For purposes of this subsection—

(A) the term "statutory pay system" shall have the meaning given that term in section 5302(1) of title 5, United States Code;

term "elements of military pay" means—

(i) the elements of compensation of members of the uniformed services specified in section 1009 of title 37, United States Code;

(ii) allowances provided members of the uniformed services under sections 403(a) and 405 of such title; and

(iii) cadet pay and midshipman pay under section 203(c) of such title; and

(C) the term "uniformed services" shall have the same meaning given that term in section 101(3) of title 37, United States Code.

(h) MEDICARE.—

(1) TIMING OF APPLICATION OF REDUCTIONS.—

(A) IN GENERAL.— Except as provided in subparagraph (B), if a reduction is made in payment amounts pursuant to sequestration order, the reduction shall be applied to payment for services furnished after the effective date of the order. For purposes of the previous sentence, in the case of inpatient services furnished for an individual, the services shall be considered to be furnished on the date of the individual's discharge from the inpatient facility.

(B) PAYMENT ON THE BASIS OF COST REPORTING PERIODS.— In the case in which payment for services of a provider of services is made under title XVIII of the Social Security Act on a basis relating to the reasonable cost incurred for the services during a cost reporting period of the provider, if a reduction is made in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for costs for such services incurred at any time during each cost reporting period of the provider any part of which occurs after the effective date of order, but only (for each such cost reporting period) in the same proportion as the fraction of the cost reporting period that occurs after the effective date of the order.

(2) NO INCREASE IN BENEFICIARY CHARGES IN ASSIGNMENT-RELATED CASES.—If a reduction in payment amounts is made pursuant to a sequestration order for services for which payment under part B of title XVIII of the Social Security Act is made on the basis of an assignment described in section 1842(b)(3)(B)(ii), in accordance with section 1842(b)(6)(B), or under the procedure described in section 1870(f)(1) of such Act, the person furnishing the services shall be considered to have accepted payment of the reasonable charge for the services, less any reduction in payment amount made pursuant to a sequestration order, as payment in full.

(3) PART B PREMIUMS.—In computing the amount and method of sequestration from part B of title XVIII of the Social Security Act—

(A) the amount of sequestration shall be calculated by multiplying the total amount by which Medicare spending exceeds the appropriate spending cap by a percentage that reflects the ratio of total spending under Part B to total Medicare spending; and

(B) sequestration in the Part B program shall be accomplished by increasing premiums to beneficiaries.

(4) NO EFFECT ON COMPUTATION OF AAPCC.—In computing the adjusted average per capita cost for purposes of section 1876(a)(4) of the Social Security Act, the Secretary of Health and Human Services shall not take into account any reductions in payment amounts which have been or may be effected under this part.

(i) POSTAL SERVICE FUND.— Any sequestration of the Postal Service Fund shall be accomplished by annual payments from that Fund to the General Fund of the Treasury, and the Postmaster General of the United States and shall have the duty to make those payments during the first fiscal year to which the sequestration order applies and each succeeding fiscal year. The amount of each annual payment shall be—

(1) the uniform sequestration percentage, times

(2) the estimated gross obligations of the Postal Service Fund in that year other than those obligations financed with an appropriation for revenue forgone that year.

Any such payment for a fiscal year shall be made as soon as possible during the fiscal year, except that it may be made in installments within that year if the payment

schedule is approved by the Secretary of the Treasury. Within 30 days after the sequestration order is issued, the Postmaster General shall submit to the Postal Rate Commission a plan for financing the annual payment for that fiscal year and publish that plan in the Federal Register. The plan may assume efficiencies in the operation of the Postal Service, reductions in capital expenditures, increases in the prices of services, or any combination, but may not assume a lower Fund surplus or higher Fund deficit and shall follow the requirements of existing law governing the Postal Service in all other respects. Within 30 days of the receipt of that plan, the Postal Rate Commission shall approve the plan or modify it in the manner that modifications are allowed under current law. If the Postal Rate Commission does not respond to the plan within 30 days, the plan submitted by the Postmaster General shall go into effect. Any plan may be later revised by the submission of a new plan to the Postal Rate Commission, which may approve or modify it.

(j) POWER MARKETING ADMINISTRATIONS AND T.V.A.— Any sequestration of the Department of Energy power marketing administration funds or the Tennessee Valley Authority fund shall be accomplished by annual payments from those funds to the General Fund of the Treasury, and the administrators of those funds shall have the duty to make those payments during the fiscal year to which the sequestration order applies and each succeeding fiscal year. The amount of each payment by a fund shall be—

(1) the direct spending uniform sequestration percentage, times

(2) the estimated gross obligations of the fund in that year other than those obligations financed from discretionary appropriations for that year.

Any such payment for a fiscal year shall be made as soon as possible during the fiscal year, except that it may be made in installments within that year if the payment schedule is approved by the Secretary of the Treasury. Annual payments by a fund may be financed by reductions in costs required to produce the pre-sequester amount of power (but those reductions shall not include reductions in the amount of power supplied by the fund), by reductions in capital expenditures, by increases in tax rates, or by any combination, but may not be financed by a lower fund surplus, a higher fund deficit, additional borrowing, delay in repayment of principal on outstanding debt and shall follow the requirements of existing law governing the fund in all other respects. The administrator of a fund or the TVA Board is authorized to take the actions specified in this subsection in order to make the annual payments to the Treasury.

(k) BUSINESS-LIKE TRANSACTIONS.—Notwithstanding any other provision of law, for programs which provide a business-like service in exchange for a fee, sequestration shall be accomplished through a uniform increase in fees (sufficient to produce the dollar savings in such programs for the fiscal year of the sequestration required by section 11201(a)(2), all subsequent fees shall be increased by the same percentage, and all proceeds from such fees shall be paid into the general fund of the Treasury, in any year for which a sequester affecting such programs are in effect.

SEC. 11207. THE CURRENT LAW BASELINE.

(a) SUBMISSION OF REPORTS.—CBO and OMB shall submit to the President and the Congress reports setting forth the budget baselines for the budget year and the next nine fiscal years. The CBO report shall be submitted on or before January 15. The OMB report shall accompany the President's budget.

(b) DETERMINATION OF THE BUDGET BASELINE.—(1) The budget baseline shall be based on the common economic assumptions set forth in section 11106, adjusted to reflect revisions pursuant to subsection (c).

(2) The budget baseline shall consist of a projection of current year levels of budget authority, outlays, revenues and the surplus or deficit into the budget year and the relevant outyears based on current enacted laws as of the date of the projection.

(3) For discretionary spending items, the baseline shall be the spending caps in effect pursuant to section 601(a)(2) of the Congressional Budget Act of 1974. For years for which there are no caps, the baseline for discretionary spending shall be the same as the last year for which there were statutory caps.

(4) For all other expenditures and for revenues, the baseline shall be adjusted by comparing unemployment, inflation, interest rates, growth and other economic indicators-and changes ineligible population-for the most recent period for which actual data are available, compared to the assumptions contained in section 11106.

(c) REVISIONS TO THE BASELINE.—The baseline shall be adjusted for up-to-date economic assumptions when CBO submits its Economic and Budget Update and when OMB submits its budget update, and by August 1 each year, when CBO and OBM submit their midyear reviews.

SEC. 11208. LIMITATIONS ON EMERGENCY SPENDING.

(a) IN GENERAL.—(1) Within the discretionary caps for each fiscal year contained in this Act, an amount shall be withheld from allocation to the appropriate committees of the House of Representatives and of the Senate and reserved for natural disasters and other emergency purposes.

(2) Such amount for each such fiscal year shall not be less than 1 percent of total budget authority and outlays available within those caps for that fiscal year.

(3) The amounts reserved pursuant to this subsection shall be made available for allocation to such committees only if—

(A) the President has made a request for such disaster funds;

(B) the programs to be funded are included in such request; and

(C) the projected obligations for unforeseen emergency needs exceed the 10-year rolling average annual expenditures for existing programs included in the Presidential request for the applicable fiscal year.

(4) Notwithstanding any other provision of law—

(A) States and localities shall be required to maintain effort and ensure that Federal assistance payments do not replace, subvert or otherwise have the effect of reducing regularly budgeted State and local expenditures for law enforcement, refighting, road construction and maintenance, building construction and maintenance or any other category of regular government expenditure (to ensure that Federal disaster payments are made only for incremental costs directly attributable to unforeseen disasters, and do not replace or reduce regular State and local expenditures for the same purposes);

(B) the President may not take administrative action to waive any requirement for States or localities to make minimum matching payments as a condition or receiving Federal disaster assistance and prohibit the President from taking administrative action to waive all or part of any repayment of Federal loans for the State or local matching share required as a condition of receiving Federal disaster assistance, and this clause shall apply to all matching share requirements and loans to meet matching share requirements under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) and any other Acts pursuant to which the President may declare a disaster or disasters and States and localities otherwise qualify for Federal disaster assistance; and

(C) a two-thirds vote in each House of Congress shall be required for each emergency to reduce or waive the State matching requirement of to forgive all or part of loans for the State matching share as required under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

(b) EFFECT BUDGET RESOLUTIONS.—(1) All concurrent resolutions on the budget (including revisions) shall specify the amount of new budget authority and outlays within the discretionary spending cap that shall be withheld from allocation to the committees and reserved for natural disasters, and a procedure for releasing such funds for allocation to the appropriate committee. The amount withheld shall be equal to 1 percent of the total discretionary spending cap for fiscal year covered by the resolution, unless additional amounts are specified.

(2) The procedure for allocation of the amounts pursuant to paragraph (1) shall ensure that the funds are released for allocation only pursuant to the conditions contained in subsection (a)(3)(A) through (C).

(c) RESTRICTION ON USE OF FUNDS.—Notwithstanding any other provision of law, the amount reserved pursuant to subsection (a) shall not be available for other than emergency funding requirements for particular natural disasters or national security emergencies so designated by Acts of Congress.

(d) NEW POINT OF ORDER.—(1) Title IV of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"POINT OF ORDER REGARDING EMERGENCIES

"SEC. 408. It shall not be in order in the House of Representatives or the Senate to consider any bill or joint resolution, or amendment thereto or conference report thereon, containing an emergency designation for purposes of section 251(b)(2)(D) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 or of section 11207 of the Balanced Budget Assurance Act of 1997 if it also provides an appropriation or direct spending for any other item or contains any other matter, but that bill or joint resolution, amendment, or conference report may contain rescissions of budget authority or reductions of direct spending, or that amendment may reduce amounts for that emergency.".

(2) The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 407 the following new item:

"Sec. 408. Point of order regarding emergencies.".

Mr. BROWN of Ohio (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

POINT OF ORDER

Mr. THOMAS. Mr. Speaker, I rise to a point of order that the amendment is not germane to the bill.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. THOMAS. Mr. Speaker, the budget process provisions prospectively amend another bill; that is, H.R. 2014, the Revenue Reconciliation Act of 1997, specifically section 11204(c). It suspends provisions in the Internal Revenue Code that are added by H.R. 2014 and is, therefore, beyond the scope.

The SPEAKER pro tempore. Does the gentleman from Texas [Mr. STENHOLM] wish to be heard on the point of order?

Mr. STENHOLM. Yes, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, in rising to speak to the point of order, I will couple it with a parliamentary inquiry. It was my understanding, since the item in question is the enforcement mechanisms of the budget, what this motion to recommit includes is the entire Minge-Barton amendment that was denied an opportunity to be on the floor under the rule.

In the colloquy that occurred this morning, it was my understanding, and at least my friends on the other side of the aisle who acceded to this, that this would eventually be heard in a separate bill on the floor by July 24. In so doing, it would then be coupled, assuming it passes, would be coupled with the reconciliation bill so that the final conference report would include, if the House chooses to include this in the language of the bill, would be voted upon.

My question, Mr. Speaker, if that is the case, how can it be out of order for us to consider this amendment today when it will be in order to consider it on July 24?

The SPEAKER pro tempore. The Chair would respond by saying that he cannot make a determination as to what the legislative situation would be at some future date 3 weeks from now.

Mr. STENHOLM. Continuing my question as to the point of order, if it is the parliamentary judgment today that this is not in order to be heard as a motion to recommit, under what circumstance could it be possible for us to consider this at a later date?

The SPEAKER pro tempore. The Chair cannot anticipate what the conferees on this bill might do. That is something that will be considered at a future date.

Mr. STENHOLM. So the judgment of the Speaker is that today it is out of order but it might be in order at a later date?

The SPEAKER pro tempore. The Chair is not going to engage in some sort of hypothetical consideration as to what might take place several weeks from now.

Does the gentleman wish to be heard further on the point of order?

Mr. STENHOLM. Mr. Speaker, I would say this is a very curious circumstance, but I hope the entire House is listening because this is a very important matter for a lot of us who are supporting this entire budget process. I am very worried to have this amendment as part of the recommittal be held out of order and then have hope that perhaps in the future it will be in order. That bothers me, but I respect the Chair's decision today.

The SPEAKER pro tempore. Does the gentleman from Ohio [Mr. BROWN] wish to be heard on the point of order?

Mr. BROWN of Ohio. No, Mr. Speaker. We concede the point of order.

The SPEAKER pro tempore. The gentleman concedes the point of order?

Mr. BROWN of Ohio. We await the ruling of the Chair, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from California makes a point of order that the amendment contained in the motion to recommit with instructions is not germane to the bill. While the test of germaneness in this instance is measured against the bill as whole, the Chair notes that a portion of the amendment makes provisions of another bill not presently before the House, namely, the Revenue Reconciliation Act of 1997, contingent on achieving revenue targets in future fiscal years.

As such, the amendment is a prospective indirect change in a bill not yet considered by the House. The Chair holds that the amendment is thus not germane to the bill, H.R. 2015, and sustains the point of order.

MOTION TO RECOMMIT OFFERED BY MR. BROWN OF OHIO

Mr. BROWN of Ohio. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman still opposed to the bill?

Mr. BROWN of Ohio. Yes, Mr. Speaker, I am, more so than when the Chair asked the last time.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. BROWN of Ohio moves to recommit the bill H.R. 2015 to the Committee on the Budget with instructions to report the same back to the House forthwith with the following amendment:

Strike subtitle F of title III and insert the following:

Subtitle F—Child Health Insurance Initiative Act of 1997

SEC. 3500. SHORT TITLE OF SUBTITLE.

This subtitle may be cited as the "Child Health Insurance Initiative Act of 1997".

CHAPTER 1—IMPROVED OUTREACH

SEC. 3501. GRANT PROGRAM TO PROMOTE OUTREACH EFFORTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, for each fiscal year beginning with fiscal year 1998 to the Secretary of Health and Human Services, $25,000,000 for grants to States, localities, and nonprofit entities to promote outreach efforts to enroll eligible children under the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and related programs.

(b) USE OF FUNDS.—Funds under this section may be used to reimburse States, localities, and nonprofit entities for additional training and administrative costs associated with outreach activities. Such activities include the following:

(1) USE OF A COMMON APPLICATION FORM FOR FEDERAL CHILD ASSISTANCE PROGRAMS.—Implementing use of a single application form (established by the Secretary and based on the model application forms developed under subsections (a) and (b) of section 6506 of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 701 note; 1396a note)) to determine the eligibility of a child or the child's family (as applicable) for assistance or benefits under the medicaid program and under other Federal child assistance programs (such as the temporary assistance for needy families program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the food stamp program, as defined in section 3(h) of the Food Stamp Act of 1977 (7 U.S.C. 2012(h)), and the State program for foster care maintenance payments and adoption assistance payments under part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.)).

(2) EXPANDING OUTSTATIONING OF ELIGIBILITY PERSONNEL.—Providing for the stationing of eligibility workers at sites, such as hospitals and health clinics, at which children receive health care or related services.

(c) APPLICATION, ETC.—Funding shall be made available under this section only upon the approval of an application by a State, locality, or nonprofit entity for such funding and only upon such terms and conditions as the Secretary specifies.

(d) ADMINISTRATION.—The Secretary may administer the grant program under this section through the identifiable administrative unit designated under section 509(a) of the Social Security Act (42 U.S.C. 709(a)) to promote coordination of medicaid and maternal and child health activities and other child health related activities.

CHAPTER 2—MEDIKIDS PROGRAM

SEC. 3521. STATE ENTITLEMENT TO PAYMENT FOR MEDIKIDS PROGRAM.

(a) IN GENERAL.—Each State that has a plan for a child health insurance program, or MediKids program, approved by the Secretary is entitled to receive, from amounts in the Treasury not otherwise appropriated and for each fiscal year beginning with fiscal year 1998, payment of the amounts provided under section 3523.

(b) APPLICATION.—The Secretary shall establish a procedure for the submittal and approval of plans for MediKids programs under this chapter. The Secretary shall approve the plan of a State for such a program if the Secretary determines that—

(1) the State is meeting the medicaid coverage requirements of section 3522(a), and

(2) the plan provides assurances satisfactory to the Secretary that the MediKids program will be conducted consistent with the applicable requirements of section 3522.

SEC. 3522. REQUIREMENTS FOR APPROVAL OF MEDIKIDS PROGRAM.

(a) ADEQUATE MEDICAID COVERAGE.—The medicaid coverage requirements of this subsection are the following:

(1) COVERAGE OF PREGNANT WOMEN AND CHILDREN AND INFANTS UP TO 185 PERCENT OF POVERTY.—The State has established 185 percent of the poverty line as the applicable percentage under section 1902(l)(2)(A) of the Social Security Act (42 U.S.C. 1396a(l)(2)(A)).

(2) COVERAGE OF CHILDREN UP TO 19 YEARS OF AGE.—The State provides, either through exercise of the option under section 1902(l)(1)(D) of such Act (42 U.S.C. 1396a(l)(1)(D)) or authority under section 1902(r)(2) of such Act (42 U.S.C. 1396a(r)(2)) for coverage under section 1902(l)(1)(D) of such Act of individuals under 19 years of age, regardless of date of birth.

(3) MAINTENANCE OF EFFORT.—

(A) MEDICAID.—Subject to subparagraph (B), the State—

(i) has not modified the eligibility requirements for children under the State medicaid plan, as in effect on January 1, 1997 in any manner that would have the effect of reducing the eligibility of children for coverage under such plan, and

(ii) will use the funds provided under this chapter to supplement and not supplant other Federal and State funds.

(B) WAIVER EXCEPTION.—Subparagraph (A) shall not apply to modifications made pursuant to an application for a waiver under section 1115 of the Social Security Act (42 U.S.C. 1315) submitted before January 1, 1997.

(b) COVERAGE OF UNINSURED CHILDREN.—

(1) IN GENERAL.—A MediKids program shall not provide benefits for children who are otherwise covered for such benefits under a medicaid plan or under a group health plan, health insurance coverage, or other health benefits coverage, but may expend funds for outreach and other activities in order to promote coverage under such plans.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a MediKids plan of a State to provide coverage for all near poverty level children described in paragraph (1) who are residing in the State.

(c) MEDICAID-EQUIVALENT BENEFITS.—Subject to subsection (d), a MediKids program shall provide benefits to eligible children for the equivalent items and services for which medical assistance is available (other than cost sharing) to children under the State's medicaid plan.

(d) PREMIUMS AND COST-SHARING.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), a MediKids program may—

(A) require the payment of premiums as a condition for coverage, but only for a covered child whose family income exceeds the poverty line;

(B) impose deductibles, coinsurance, copayments, and other forms of cost-sharing with respect to benefits under the program; and

(C) vary the levels of premiums, deductibles, coinsurance, copayments, and other cost-sharing based on a sliding scale related to the family income of the covered child.

(2) LIMITS ON PREMIUMS AND COST-SHARING.—The Secretary shall establish limits on the amount of cost-sharing expenses (including premiums, deductibles, coinsurance, copayments, and any other required financial contribution) that may be applied under the program. Such limits shall assure that total cost sharing expenses for children participating in such program are reasonable in relation to the income of their family (and taking into account the other types of expenses generally incurred by such families and family size) and that such cost sharing expenses do not unreasonably reduce access to the coverage or covered services provided under such program.

(3) NO COST SHARING FOR PREVENTIVE SERVICES.—A MediKids program may not impose deductibles, coinsurance, copayments, or similar cost sharing for preventive services.

SEC. 3523. PAYMENT AMOUNTS.

(a) TOTAL AMOUNT AVAILABLE.—

(1) IN GENERAL.—The total amount of funds that is available for payments under this chapter in any fiscal year is the base amount specified in paragraph (2) for the fiscal year reduced by the amount specified under paragraph (3) for the fiscal year.

(2) BASE AMOUNT.—The base amount specified under this paragraph for fiscal year 1998 and any subsequent fiscal year is $2,805,000,000.

(3) OFFSET FOR CERTAIN INCREASED MEDICAID EXPENDITURES.—

(A) IN GENERAL.—Subject to subparagraph (B), the amount specified under this paragraph for a fiscal year is the amount of aggregate additional Federal expenditures under made title XIX of the Social Security Act during the fiscal year that the Secretary estimates, before the beginning of the fiscal year, is attributable to imposition of the conditions described in section 3522(a). For purposes of applying the previous sentence, any Federal expenditures that result from an increase in the applicable percentage under section 1902(l)(2)(A) of the Social Security Act above the percentage in effect as of June 25, 1997, or from any exercise of an option described in section 3522(a)(2) effected on or after such date, shall be treated as additional Federal expenditures attributable to the imposition of the conditions described in section 3522(a).

(B) ADJUSTMENT TO REFLECT ACTUAL EXPENDITURES.—After the end of each fiscal year, the Secretary shall determine the actual amount of the additional Federal expenditures described in subparagraph (A) for the fiscal year. The Secretary shall adjust the amount otherwise specified under subparagraph (A) for subsequent years to take into account the amount by which the amounts estimated for previous fiscal years under such subparagraph were greater, or less than, the actual amount of the expenditures for such years.

(b) ALLOTMENT AMONG STATES.—

(1) IN GENERAL.—The Secretary shall establish a formula for the allotment of the total amount of funds available under subsection (a) among the qualifying States for each fiscal year.

(2) BASIS.—The formula shall be based upon the Secretary's estimate of the number of near poverty level children in the State as a proportion of the total of such numbers for all the qualifying States.

(3) CARRYFORWARD.—If the Secretary does not pay to a State under subsection (c) in a fiscal year the amount of its allotment in that fiscal year under this subsection, the amount of its allotment under this subsection for the succeeding fiscal year shall be increased by the amount of such shortfall.

(c) PAYMENTS.—

(1) IN GENERAL.—From the allotment of each qualifying State under subsection (b) for a fiscal year, the Secretary shall pay to the State for each quarter in the fiscal year an amount equal to 75 percent of the total amount expended during such quarter to carry out the State's MediKids program.

(2) NOT COUNTING COST SHARING.—For purposes of paragraph (1), if a MediKids program imposes premiums for coverage or requires payment of deductibles, coinsurance, copayments, or other cost sharing, under rules of the Secretary, expenditures attributable to such premiums or cost sharing shall not be taken into account under paragraph (1).

(d) STATE ENTITLEMENT.—This chapter constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the payment to qualifying States of amounts provided under this section.

SEC. 3529. DEFINITIONS.

For purposes of this chapter:

(1) The term "child" means an individual under 19 years of age.

(2) The term "medicaid plan" means the plan of medical assistance of a State under title XIX of the Social Security Act.

(3) The term "MediKids program" means a child health insurance program of a State under this title.

(4) The term "near poverty level child" means a child the family income of which (as defined by the Secretary) is at least 100 percent, but less than 300 percent, of the poverty line.

(5) The term "poverty line" has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

(6) The term "qualifying State" means a State with a MediKids program for which a plan is submitted and approved under this title.

(7) The term "Secretary" means the Secretary of Health and Human Services .

(8) The term "State" means the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

CHAPTER 3—CONTINUATION OF MEDICAID ELIGIBILITY FOR DISABLED CHILDREN WHO LOSE SSI BENEFITS

SEC. 3531. CONTINUATION OF MEDICAID ELIGIBILITY FOR DISABLED CHILDREN WHO LOSE SSI BENEFITS.

(a) IN GENERAL.—Section 1902(a)(10)(A)(i)(II) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i)(II)) is amended by inserting "(or were being paid as of the date of enactment of section 211(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193)) and would continue to be paid but for the enactment of that section" after "title XVI".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to medical assistance furnished on or after July 1, 1997.

CHAPTER 4—ASSURING CHILDREN'S ACCESS TO HEALTH INSURANCE

SEC. 3541. GUARANTEED AVAILABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE TO UNINSURED CHILDREN.

(a) IN GENERAL.—Title XXVII of the Public Health Service Act, as added by section 111(a) of the Health Insurance Portability and Accountability Act of 1996, is amended by inserting after section 2741 the following new section:

"SEC. 2741A. GUARANTEED AVAILABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE TO UNINSURED CHILDREN.

"(a) GUARANTEED AVAILABILITY.—

"(1) IN GENERAL.—Subject to the succeeding subsections of this section, each health insurance issuer that offers health insurance coverage (as defined in section 2791(b)(1)) in the individual market in a State, in the case of an eligible child (as defined in subsection (b)) desiring to enroll in individual health insurance coverage—

"(A) may not decline to offer such coverage to, or deny enrollment of, such child;

"(B) either (i) does not impose any preexisting condition exclusion (as defined in section 2701(b)(1)(A)) with respect to such coverage, or (ii) imposes such a preexisting condition exclusion only to the extent such an exclusion may be imposed under section 2701(a) in the case of an individual who is not a late enrollee; and

"(C) shall provide that the premium for the coverage is determined in a manner so that the ratio of the premium for such eligible children to the premium for eligible individuals described in section 2741(b) does not exceed the ratio of the actuarial value of such coverage (calculated based on a standardized population and a set of standardized utilization and cost factors) for children to such actuarial value for such coverage for such eligible individuals.

"(2) SUBSTITUTION BY STATE OF ACCEPTABLE ALTERNATIVE MECHANISM.—The requirement of paragraph (1) shall not apply to health insurance coverage offered in the individual market in a State in which the State is implementing an acceptable alternative mechanism under section 2744.

"(b) ELIGIBLE CHILD DEFINED.—In this part, the term 'eligible child' means an individual born after September 30, 1983, who has not attained 19 years of age and—

"(1) who is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien otherwise permanently residing in the United States under color of law;

"(2) who is not eligible for coverage under (A) a group health plan, (B) part A or part B of title XVIII of the Social Security Act, or (C) a State plan under title XIX of such Act (or any successor program), and does not have other health insurance coverage; and

"(3) with respect to whom the most recent coverage (if any, within the 1-year period ending on the date coverage is sought under this section) was not terminated based on a factor described in paragraph (1) or (2) of section 2712(b) (relating to nonpayment of premiums or fraud).

For purposes of paragraph (2)(A), the term 'group health plan' does not include COBRA continuation coverage.

"(c) INCORPORATION OF CERTAIN PROVISIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), the provisions of subsections (c), (d), (e) and (f) (other than paragraph (1)) of section 2741 and section 2744 shall apply in relation to eligible children under subsection (a) in the same manner as they apply in relation to eligible individuals under section 2741(a).

"(2) SPECIAL RULES FOR ACCEPTABLE ALTERNATIVE MECHANISMS.—With respect to applying section 2744 under paragraph (1)—

"(A) the requirement in subsection (a)(1)(B) shall be applied instead of the requirement of section 2744(a)(1)(B);

"(B) the requirement in subsection (a)(1)(C) shall be applied instead of the requirement of section 2744(a)(1)(D); and

"(C) any deadline specified in such section shall be 1 year after the deadline otherwise specified.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take apply 1 year after the effective date for section 2741 of the Public Health Service Act (as provided under section 111(b)(1) of the Health Insurance Portability and Accountability Act of 1996).

Mr. BROWN of Ohio (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BROWN of Ohio. Mr. Speaker, the Republican children's health care expansion proposal in the Budget Reconciliation Act before us today will not ensure real health insurance coverage for the maximum number of children in the most cost-effective manner. I am deeply concerned because the Republican plan does not offer a real guarantee of health care coverage for children or a real benefits package.

The Republican block grant contains a so-called direct services loophole which could mean that not a single taxpayer penny is used to provide health insurance for our Nation's 10 million uninsured children.

States would be free to divert Federal children's health care expansion funds from directly providing health care coverage for uninsured children to instead providing direct payments to hospitals who will suffer under the disproportionate share cuts in this bill. Just as many States misused the DSH program in the early 1990s to pay for highway repairs and other related programs, I fear that States will use these Federal funds to plug holes in shrinking State budgets. We surely should have learn our lesson.

I believe there are several superior programs to help extend coverage for uninsured children. Bipartisan legislation introduced by the gentleman from Michigan [Mr. DINGELL], the gentlewoman from New Jersey [Mrs. ROUKEMA], me, and others would provide children with a guaranteed, real health care benefits package which includes preventive care, hearing and vision services, and routine doctor visits.

The Democratic Caucus proposal, another plan which is part of this motion to recommit, would promote more effective outreach for Medicaid-eligible children who are not enrolled, allow for voluntary expansion of Medicaid coverage, establish a State grant program to fund innovative kids' health initiatives and require the issuance of affordable kids-only health insurance policies.

The Republican plan, Mr. Speaker, will cost too much, waste too many tax dollars, and fail to insure America's 10 million uninsured children.

Mr. Speaker, I yield to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I want to commend my colleague for what he said about the reason we need to propose this Democratic alternative is because the Republicans have offered just a straight block grant. It does not mandate that these funds go to the children who need it. It gives too much discretion to the Governors who might use this money to fund other huge gaps created by this bill, like the unfair cuts to disproportionate share hospitals also known as DSH hospitals.

The Democratic Health Care Task Force has a plan, an alternative that contains four elements:

First, incentives for States to cover children under 19 years of age in families with less than $24,000 in income and pregnant women and infants in families with incomes up to $30,000 through an enhanced Medicaid match.

Second, we have a Medikids grant for States to help middle- and low-income families to purchase private insurance or participate in a State-sponsored expanded Medicaid package.

Third, we improve outreach efforts to ensure that nearly 3 million children eligible for Medicaid that are not enrolled in the program sign up for health insurance coverage.

And, fourth, insurance reforms to require private insurance companies to provide health care policies for children at reasonable premiums.

This four-pronged approach takes what we feel are the most positive aspects in Medicaid matching grants and private insurance reforms. It assists middle- and low-income families by providing affordable health insurance for their children. It assures that children are covered by an adequate benefits package and it provides that proper balance of State flexibility with public accountability.

I urge my colleagues to support the motion to recommit so that this House has a real opportunity to address the needs of the 10 million uninsured children in our country.

The SPEAKER pro tempore. Does any Member rise in opposition to the motion to recommit?

Mr. THOMAS. Mr. Speaker, I rise in opposition to the motion to recommit.

Mr. Speaker, we heard all day, speaker after speaker on the other side of the aisle go into the well and say that the provisions that the Republicans had structured were outside the scope of the budget agreement, that we had not lived up to the budget agreement, that oh, my goodness, how could you not live up to the budget agreement.

Mr. Speaker, this motion to recommit, guess what, does not live up to the budget agreement. It clearly states in the budget agreement that there are two areas where money can be spent for children's health care. One is in Medicaid. The other one is in block grants. Other possibilities are available if mutually agreeable. Mutually agreeable.

The fact of the matter is, this motion to recommit has mandatory language requiring private insurers to carry out the wish, yes, the demands of the Democrats. It is clearly beyond the budget agreement. How in the world can you folks spend all day telling us that provision after provision is unacceptable because it is outside the budget agreement and yet you offer a motion to recommit which is one, subject to a point of order, it is not germane, and, two, the entire rest of the context is outside of the budget agreement? Why do you not live up to what you preach.

I would simply tell my colleagues, the simple answer is to vote no on the motion to recommit.

Mr. Speaker, I yield to the gentleman from Virginia [Mr. BLILEY], chairman of the Committee on Commerce, who has the specific jurisdiction of this matter, which is outside the scope of the budget agreement.

Mr. BLILEY. Mr. Speaker, I thank the gentleman for yielding to me.

Here we go again. All day, speaker after speaker on this side of the aisle complaining about their Governors getting cut with the DSH payments and not going to be able to meet the targets. Well, in the Committee on Commerce we gave $16 billion for kid care and we said to the Governors, you furnish the health and you furnish the services and we did not restrict it and they are made pretty much whole for their Medicare budgets.

But what this recommit motion would do would require States to phase in all children up to age 19 in the Medicaid Program and would require States to increase their mandatory levels of eligibility for certain eligibility groups. These are costly changes. Many States do not have the budgetary resources to do them. That means these States will not be eligible or able to participate in kid care and the uninsured children in those States would be denied the coverage and services they need. It would require States to provide only the Medicaid benefits packages to children served by kid care.

This package is so expensive that States would not be able to afford to cover millions of children who would otherwise receive coverage under our plan. It would eliminate the ability of States to provide uninsured children the health services they need. This is a violation of the budget agreement, as the distinguished chairman of the Subcommittee on Health of the Committee on Ways and Means pointed out, which provided for coverage and services to uninsured low-income children.

In addition, it would mean that services would be denied to the 2.6 million children that CBO estimates would receive health care services under our plan.

Mr. THOMAS. Mr. Speaker, I yield to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Speaker, bigger government, more bureaucrats, more restrictions on the States. As a matter of fact, we create more loopholes for the States to jump through and what we do is deny the States providing kid care for kids. So those 2.6 million children who were going to benefit from this program all of a sudden will not have States providing health care for them.

□ 1730

Too much bureaucracy, too much extra cost, too many new hoops to jump through. The States are not going to do it. The States are not going to follow this. And I think it is a bad idea at a bad time.

The SPEAKER pro tempore (Mr. DREIER). All time has expired.

PARLIAMENTARY INQUIRY

Mr. BROWN of Ohio. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BROWN of Ohio. Mr. Speaker, is the language to which the gentleman from California [Mr. THOMAS] and the gentleman from Illinois [Mr. HASTERT] and the gentleman from Virginia [Mr. BLILEY] are referring the State optional program on the——

The SPEAKER pro tempore. The gentleman is not presenting a parliamentary inquiry.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BROWN of Ohio. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 207, nays 223, not voting 4, as follows:

[Roll No. 240]

YEAS—207

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Riggs
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

NAYS—223

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda

Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—4

Chenoweth
Cox
Schiff
Yates

□ 1748

Mr. HOSTETTLER and Mr. LARGENT changed their vote from "yea" to "nay."

Mr. LIPINSKI and Ms. WOOLSEY changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. DREIER). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BONIOR. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 270, noes 162, not voting 3, as follows:

[Roll No. 241]

AYES—270

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kennelly
Kim
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Luther
Maloney (CT)
Manzullo
Martinez
McCarthy (MO)
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (FL)
Minge
Molinari
Moran (VA)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Sanchez
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stenholm
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—162

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Berman
Berry
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Carson
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Green
Gutierrez
Hall (TX)
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Klink
Kucinich
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (NY)
McDermott
McGovern
McIntosh
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Millender-McDonald
Miller (CA)
Mink
Moakley
Mollohan
Moran (KS)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Pickett
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Salmon
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Skaggs
Slaughter
Stabenow
Stark
Stearns
Stokes
Strickland
Stupak
Thompson
Tierney
Torres
Towns
Velázquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

NOT VOTING—3

Cox
Schiff
Yates

□ 1809

The Clerk announced the following pairs: on this vote:

Mr. Schiff for, with Mr. Yates against.

Messrs. GORDON, WELDON of Florida, and BARR of Georgia changed their vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

THANKING MEMBERS FOR A COURTEOUS AND DIGNIFIED DEBATE ON THE BILL JUST PASSED

(Mr. KASICH asked and was given permission to address the House for 1 minute.)

Mr. KASICH. Mr. Speaker, I just wanted to take a moment to thank the House Members on both sides of the aisle for the kind of courtesies and dignity with which we conducted that last 3 hours worth of debate, and I want to thank the House for the opportunity to move this bill forward.

I had the sense out here on the floor as we wrapped up the debate, Mr. Speaker, that while there may be differences, may be there is a little ice melting here in our ability to be able to get along, to have differences and yet still maintain a good spirit about things, and I think that is nothing but good for the future of this House.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1636

Mr. BAESLER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1636.

The SPEAKER pro tempore (Mr. TIAHRT). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

GENERAL LEAVE.

Mr. INGLIS of South Carolina. Mr. Speaker, I ask unanimous consent that all members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 2015, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

□ 1815

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. TIAHRT). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

TRIBUTE TO JOSEPH HAEFELI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. BOB SCHAFFER] is recognized for 5 minutes.

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I would like to take a moment to pay tribute to the contributions of a fine gentleman who has recently passed on. His contributions to this world have had a profound impact upon the lives he touched.

Mr. Joseph Haefeli is the man to whom I am referring. He came from God's country, the great State of Colorado in the city of Greeley. Mr. Haefeli was taken from us and called home to the Lord on March 15, 1997.

Mr. Haefeli was born on October 11, 1919. He attended the University of Northern Colorado, graduated from the University of California at Berkeley, and was a practicing doctor of optometry for 46 years. Part of his practice he served in the U.S. Air Force during World War II. Joseph Haefeli and his wife Julianne parented three children, John, Anne and Joseph. His daughter, Anne, gave him two wonderful grandchildren.

Joseph Haefeli defined the true meaning of giving to one's community. It would be hard to match his record of involvement in the community and his dedication to charity.

Joseph Haefeli was a member and past president of the Weld County Mental Health Association, member and past president of the Weld County United Way Board, chairman of the Well County Chapter of the American Red Cross, chairman of the Rotary Crippled Children's Committee, executive board member of the Longs Peak Council of Boy Scouts, member and trust chairman of the St. Mary's Catholic Church Council, chairman and board member of the Greeley Chapter of the Salvation Army.

Joseph Haefeli was awarded and named Distinguished Member of the U.S. Army Medical Regent by order of the Surgeon General. He went on to receive numerous honors from organizations such as the Chamber of Commerce, the Red Cross, the Lion's Club, Rotary International, and the Colorado Optometric Association, and many others.

Sir Joseph Haefeli was also vested as a Knight of the Equestrian Order of the Holy Sepulchre of Jerusalem in 1984, a Catholic organization that strives to sustain the spiritual life of all of its members and to support the church in Jerusalem, the Holy Land. The Order works to provide its members with a solid spiritual basis from which they can conduct their lives. Joseph Haefeli excelled in the Order and was not only a Knight of the Order, but was promoted Knight Commander with Star in 1996. This is a papal honor and the highest papal award to clergy or laity alike.

It was through this Order that I came into contact with Sir Joseph Haefeli. This pin that I wear on my lapel right above my congressional pin is the insignia of the Order and a signal of my brotherhood and fellowship with Joseph in the name of the Lord Jesus Christ. He sponsored me as a Knight of the Order which has brought deeper meaning to my spiritual life.

Sir John Owens wrote of Joseph Haefeli, "His life was devoted to his church and his fellow man and has brought credit and respect to them both."

Mr. Speaker, it is people like Joseph Haefeli who define the American spirit, that make our country so wonderful. The actions of a person like Joseph Haefeli are what gives us hope for a better tomorrow. If we could each give half of what he has contributed, this country would be a far better place for our children and our families.

Joe composed a prayer that I would like to share with the Members of the House entitled "From My Heart." It is indicative of his devotion and a clear sign of his rightful place now among the saints.

"I am a selfish man, dear Lord.
I have so much and still want more.
I want to be more generous and more kind,
More loving and more benign.
To do more good and be more thoughtful
And less sinful.
Even though You have blessed me many times,
I want and ask Your blessings
To continue in my time.
I want acceptance of your will,
Your guidance and Your rule,
To thank You for all of my happiness,
My sorrow and hurt too.
Each brings me nearer, Lord, to You.
I want and ask for Your forgiveness
And mercy also.
I want to praise You as my God and thank You
For all you have done for me.
What I really want the most is what
You want for me.
Jesus, I am a selfish man—maybe yes, maybe no
Because I want my family, my friends and all
To share these 'wants' and Your answers too.
Lord, I know You understand.
Help me to know what You want from me.
Amen."
—Written by Sir Joseph Haefeli, November of 1994.

Mr. Speaker, Mr. Haefeli will be missed and remembered always as a great American. Our prayers that the Lord might bless and protect his family and descendents, may his soul and all the souls of the faithfully departed, through the mercy of God, rest in peace.

DETROIT NEWSPAPER STRIKE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. BONIOR] is recognized for 5 minutes.

Mr. BONIOR. Mr. Speaker, tonight I want to take a few moments to pay tribute to some of the bravest and the strongest people that I know, those 2,000 men and women who are taking on two of the largest and the wealthiest and the most powerful corporations in our country, those 2,000 men and women who are standing strong in Detroit against Gannett and Knight-Ridder, those 2,000 men and women who have put their lives on hold for two years, been challenged economically, physically, emotionally, but are fighting for fairness and for justice and for what they believe in.

They are people like Kate DeSmet and Sandra Davis, they are people like Frank Brabanec and Stephen Olter, Mark Naumoff and Ben Solomon. They are the people that I met with last weekend when we held a rally and a march and did a civil action against those who would deny the over 2,000 men and women in Detroit their jobs at these newspapers.

We had over 120,000 people attend a rally in support of these brave men and women. Last Saturday morning I heard Frank Brabanec tell of being struck in the head, beaten, drug across the pavement. I saw hundreds of people holding picket signs with a picture of him being kicked. I heard Stephen Olter tell of being struck with a baton and a metal nut launched from a sling shot. I heard Mark Naumoff tell of being pinned under a gate when a truck knocked off its hinges and knocked it into a peaceful picket. I heard of Ben Solomon being handcuffed and then having pepper sprayed in his eyes.

These are the stories of the voices of the Detroit Newspaper lockout. They are the struggles that these men and women go through nearly every day as they fight for what is right. They are the same struggles our parents and our grandparents fought for, bled for, and sometimes died for. But they are the struggles that brought us a decent wage, that brought us pensions and health benefits, that brought us the weekend, that brought us safe working standards, that brought us overtime pay, that brought us all the things that help make the middle class in our country today and make our country as productive and as wealthy as it is.

They are the struggles that have raised the standards of living for every single American citizen, whether they belong to a union or not. We owe them a thank you. We owe them a thank you, not a kick in the side, as they

were given in their efforts to bring justice to the workplace.

So tonight, Mr. Speaker, I say thank you to Frank and Stephen and to Mark and Ben, and to everyone who has fought for the dignity of American workers. I also stand with you. This is a struggle for human rights, for fairness and for justice; it is a struggle worth fighting for, and I can tell these workers, and I can tell 120,000 people who came from all over the country last weekend. In fact, we had people come from Europe to stand with our brothers and sisters, that we will win this struggle, because the News and the Free Press, the two papers in Detroit owned by Gannett and Knight-Ridder are wrong, they are disobeying the law, they are guilty, they are guilty of disrespect for the law by keeping these workers out.

A judge just last week ruled that they conducted themselves with unfair labor practices. They need to return these people to work so they can provide for their families. And we will be talking about this issue as we talked about the issue of the workers, the strawberry workers in California who are struggling to be able to be recognized with a decent wage and decent benefits. We will be talking about workers struggling in the poultry facilities in the Carolinas or the textile mills in the South or the steel workers at Pittston or the Caterpillar workers who have been struggling for years. These are American workers who deserve the respect of their government, of the corporate leaders in this country, and certainly their citizens.

So again, I thank those at the Detroit News, those who are fighting the News and the Free Press for justice and fairness for the American worker.

TAXPAYERS RELIEF ACT OF 1997

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 5 minutes.

Mr. GINGRICH. Mr. Speaker, I rise to remind my colleagues that tomorrow, part 2 of the budget agreement, the historic agreement that has enabled us today to have a great victory for the American people by saving money, by reforming entitlements, by saving Medicare, that that agreement goes into phase 2 tomorrow with a very, very important Taxpayers Relief Act of 1997.

I want to take just a moment to remind my colleagues of the human side of the Taxpayers Relief Act of 1997. This is a bill which will provide more money for working taxpaying families with children; it will provide more money for folks who are going on to college and vocational and technical school; it will provide more money for families who have family farms or family ranches or family businesses and have the head of the family die and would potentially even lose that business to the IRS; and it provides for more resources to go to savings and investment and job creation, which is very vital if our welfare-to-work reform is going to succeed, because if we are going to ask people to leave welfare to go to work, we have to have enough economic growth, enough new jobs, in order to have the work for people to leave welfare to go to.

So the Taxpayers Relief Act of 1997 is very, very important. Let me put it in personal language. My sister-in-law and brother-in-law, Marilyn and Ray Heddleson out in Leetonia, Ohio have two young boys, Jon and Mark. Jon has graduated from high school, is about to go to college; Mark has one more year in high school. They know that the educational tax components of this is going to help them pay for the cost of those two boys being in school, and they know that when both of those boys are in school, that that is a lot of money for a working, middle class family.

My sister Robin and her husband David have two young girls, my nieces, Emily and Susan. They are not at that age yet, and they know that that $500 per child tax credit, $1,000 a year in extra take-home pay for their family means a lot and is going to enable them to do things, whether those things are saving for education, doing something with health care, doing something with the family; frankly, maybe just having fun and bonding closer together because they go on a vacation. I do not think we in Washington should define for parents what they think their priorities are for their children. This $500 per child tax credit creates the opportunity for those young folks to have a chance to have a better life.

My brother Randy and his wife Jill have two children, my niece Lauren and my nephew, Kevin. Again, they are not of the college-going age yet, but when they think about savings for college with the tax advantages of this bill, when they think about that extra $1,000 per year in take-home pay, having two children, when they think about the chance for when they go to college or vocational-technical school to have that extra tax credit, they know that we are going to help their family have a better future with this bill.

□ 1830

My oldest daughter, Kathy, owns a little company called the Carolina Coffee Company down in Greensboro, North Carolina. She actually lives in the district of the gentleman from North Carolina [Mr. HOWARD COBLE]. She knows, as a small business woman, that this bill is going to make it better for her employees, because they are going to have more take-home pay.

This bill is going to make it better in that college town, because there is going to be more help for people who go on to college and vo-tech school. And this bill has relief in it that helps small businesses.

She is also looking forward to the work that the gentleman from Ohio [Mr. ROB PORTMAN], has done on the commission to simplify and reform the IRS, because she knows if we will simplify taxes and simplify paperwork, we are going to have a dramatically better future for small business in this country. She knows that it is small businesses that create the jobs, that create a better future.

We all believe that it is very important to encourage people to save, to invest, to create jobs, because we know that if we are going to enter the 21st century and compete in the world market, if our children are going to compete with China and Japan and Korea, with Germany and France and Italy, with Brazil and Mexico, we need to have the best equipment and the best factories with the best jobs.

So this bill provides for the kind of incentives to save and invest and create jobs, called capital gains, because it cuts the tax on those who are willing to take the risk to create jobs, and that is very important to every citizen who wants a job, and it is very important to all of us who want our children to have the best jobs in the world.

Finally, this bill helps families that might have worked all their lives, who might have a family farm or a family ranch, who might have a small business they have created and worked on. We do not believe it is right for someone to have to visit the undertaker and the Internal Revenue Service the same week. We think that is just wrong.

We do not think it is right for someone to be in a position where they have worked all their life, they love their children and grandchildren, they have saved all their lives, and now the government is going to punish them when they die by taking away 55 percent of everything they save. We just think that is wrong.

So this bill begins to reduce the burden of the death tax, it begins to help small businesses and family farms so families can pass on to their children and their grandchildren their life's work.

So on balance, whether you are a young person with children who are young, and you are going to get that extra $500 per child. Remember, for a family with 3 children that is $1,500 in take-home pay more this coming cycle. So that year after year, let us say you have a child born, as our majority leader, the gentleman from Texas [DICK ARMEY], had a grandson born last week, Chris faces the prospect that over the next 16 or 17 years his parents are going to have $8,000 or $8,500 more before he gets of an age to go on to college or a technical school, and that is,

we think, good for America; better for the family, better for the parents, better for the children, better for job creation, better in creating the work so people can leave welfare and go to work.

That is why we believe the Taxpayers Relief Act of 1997 is the right thing to do.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF A CONCURRENT RESOLUTION PROVIDING FOR ADJOURNMENT OF THE HOUSE AND SENATE FOR THE INDEPENDENCE DAY DISTRICT WORK PERIOD

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 105–154) on the resolution (H. Res. 176) providing for consideration of a concurrent resolution providing for adjournment of the House and Senate for the Independence Day district work period, which was referred to the House Calendar and ordered to be printed.

THE REPUBLICAN TAX BILL BENEFITS SPECIAL INTERESTS AND THE WEALTHIEST AMERICANS

The SPEAKER pro tempore (Mr. TIAHRT). Under a previous order of the House, the gentleman from California [Mr. FAZIO] is recognized for 5 minutes.

Mr. FAZIO of California. Mr. Speaker, if the 1996 elections told this Congress anything, it was to work together in a bipartisan fashion. In my district in California and throughout the Nation Americans told us to put aside differences and provide a tax cut that makes sense.

Unfortunately, the Republicans who crafted their tax bill turned a deaf ear to the American people, to the President, and certainly to those of us on this side of the aisle. Instead, they chose to listen to the special interests that had inordinate influence in the way the campaigns were conducted.

Just look at their tax bill. The American people want education tax credits to make college affordable. Instead, what do they get? Not much for education, but large cuts in the capital gains tax for the wealthiest Americans, not just the farmers and small business people who build a business and deserve to sell it for retirement.

Americans want affordable child care, but what do they get instead? A bill that denies the $500 per child tax credit to 15 million families who work hard to make ends meet. Americans want the middle class to get tax relief and corporations to pay their fair share. But what do they get instead, in this bill? A proposal to wipe out the alternative minimum tax, which would allow the largest corporations in America to not pay a dime in taxes.

Remember, this debate is not about whether we should cut taxes, it is about who gets the benefits. When we act tomorrow on a tax bill, we will make a clear distinction between the two parties as to where our attention is focused. Who gets the benefits? On that there is a clear difference. The Democratic bill helps working families. The Republican bill, I regret, caters to the wealthy and the special interests.

Mr. Speaker, even by Washington standards there is some extraordinarily creative accounting going on by Republicans as they try to cook the numbers to show who benefits from their tax cut proposal. Now for the first time, truly independent comparisons of the Republican and Democratic tax plans are in. Here is what the U.S. News and World Report had to say when they conducted an independent comparison of the Republican and Democratic tax plans.

Calling the Republican calculations "ridiculous," it pointed out that the Republican tax plan is so tilted to the rich that Steve Forbes will face a lower tax rate than his house servant. "The GOP's tactical aim here," the magazine says, "is to put middle class voters against the 'undeserving poor.' Well, there is, it seems, a dime's worth of difference between the political parties after all," concludes the U.S. news and World Report.

For middle class working families, it is much more than a dime, it is the thousands of dollars in their pockets. The Democratic tax cut plan is the one that makes sense for America. It is fair, it promotes opportunity, and it rewards working families.

When we look back at the history of the last 15 years and we see the stagnant wages that have affected people who make from $25,000 to $50,000 to $75,000 a year, and we have limited options in a restrained budget deal, we have to make sure that we focus the relief on the people who need it most. Many of these people are not part of the stock market boom. They are not in position to share in the growth of this economy. They need to be considered first and foremost when we try to sort out our priorities in dealing with this tax bill.

Most economic analysts have indicated without political bias that fully 50 percent of the funds made available in the Republican tax proposal will go to the 5 percent at the very top of the income ladder. That does not seem to me to be in a fair and even an objective sense the right thing to do with limited resources available.

We have, I think, reached the point where the two parties will put away the myth that some have perpetuated that there is not a dime's worth of difference between us. Tomorrow we will vote on a Democratic alternative and then on a Republican bill. I think Members will find that there is a difference, and that the Democrats, in supporting their reform proposal, are standing up for the people who need us the most, who do not have the resources to take the vacations and to pay for the high cost of private educations, the people who simply want to get their kids a higher education, and who want a little bit of time, maybe on a long weekend, to make the long work week pay.

I certainly hope we will make the decision tomorrow that will be in their interests, and show once again, there is a dime's worth of difference, maybe thousands worth of difference between the two parties.

THE REPUBLICAN TAX BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, I am certainly glad tonight to have an opportunity to discuss this tax bill with my Democrat colleagues and Republican colleagues. Tomorrow we are going to vote on the first tax relief bill in 16 years. It is a bill that gives capital gains tax relief and a $500 per child tax credit, it gives death tax relief, a college scholarship or deduction, the HOPE scholarship, and the American dream IRA. Make no mistake, this tax bill is not perfect by any stretch of the imagination, but it is the first tax bill that we have had in over 16 years.

We are hearing a lot from the Democrats that this tax bill, or it is kind of interesting to hear it coming from some of the speakers, that for the first time they are saying, it is not a question of tax relief.

I do not understand that. They have had this Chamber for 40 years. They have never passed tax relief until Ronald Reagan shoved it on them. But they have been passing lots of tax increases, and what they are saying is, well, we want tax relief, but not this. Does that sound familiar?

If you are a watcher of politics, you will know this is the same thing they have always said on the budget: Of course we want to balance the budget, but not here, not now, not this bill. It is the same old thing.

Let us talk, Mr. Speaker, let us talk about who benefits from this, because we keep hearing that this is a tax cut for the wealthy. If Members will look at this chart, I invite my colleagues to see, this is a chart with information by the nonpartisan Joint Economic Committee. It shows that the tax relief, the bulk of it, will go, and this is about 76 percent, to families with a combined household income of $20,000 to $75,000. Over here is the $75,000 to $100,000. This area right here on this chart is 91 percent of the tax relief.

Now, will somebody who is wealthy get a little bit of tax relief? Yes, they will. I know that the Democrats hate folks who have succeeded. They just seem to love class warfare and they are

not about to do it. So to keep their continuation of the debate on this rich, evil American, and it is interesting, sometime when you are working, maybe go out there and look at the person who is creating the jobs, and ask yourself, is this a mean, evil person?

But to show the low degree to which they will stoop in order to prove their point, what they have done is they have taken a household that makes $49,000 a year. Then they charge you rent on your own house that you may or may not be paying a mortgage on, but let us just say it is a $100,000 house. What the Democrats do is say that is worth $1,000 a month in rent. To your $49,000 they are going to add $12,000 in rent. If you have a parking space at your job they are going to charge you $30 or $40 a month in rent, and they are saying that is what it is worth, and they are going to add that to your income, and also gains on your pension plan, anything that is a benefit.

So when you are through with the Democratic tricks, the $49,000 income is worth $93,000. So if you are represented by a Democrat, I would invite you to write him or her and ask him, how did you come up with these numbers? And then ask yourself if you would really want somebody who understands math like that to represent you, and maybe you may want to think about qualifying for the job yourself.

This is the reality of taxes, which Democrats hate. That is that 95 percent of the taxes in America are paid by the people in the top 50 percent bracket. Why do we give middle class tax relief? Because those are the folks who are paying the taxes. What the Democrats want to do, if you are middle class, they want to take your $500 per child tax credit that you as a taxpayer are paying and give it to somebody who does not pay taxes. Think about this. A single woman with a 14-year-old and a 16-year-old, under the Republican plan, will get $1,000 in tax relief. Under the Democrat plan she will get zero. Yes, that is compassion, to the middle class.

Where will that money go? It will go to somebody who is not paying taxes. Does that make sense? Is that compassion? Is that what Members want? Just because this woman, this single mother of two is out there working and just because her children are over 12 years old, she is not going to get any tax relief, but the person who is not paying taxes will get that $500 per child tax relief.

In my district there was a young man, he is 30 years old. He was bragging to the newspaper the other day that he has fathered 30 kids. He has 30 children. I want to say this to him, more power to you as long as you pay for them. But the fact is he is not paying for them, you are paying for them. Under the Democrat plan the tax relief will go to him as a non-taxpayer.

I am telling the Members, it is a fraud. Vote for middle class tax relief. Vote for the Republican plan, and do not listen to the phony baloney that the Democrats are pushing.

□ 1845

THE LIFE OF MS. JEWEL LAFONTANT MANKARIOUS

The SPEAKER pro tempore (Mr. TIAHRT). Under a previous order of the House, the gentleman from Illinois [Mr. DAVIS] is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, as the Chicago Sun Times put it, "A jewel has died." That is Jewel Lafontant Makarious. I rise to pay tribute to a great woman, a great lady, a great Chicagoan, an accomplished lawyer, civil rights advocate, a great American, friend of Presidents and mother of John Rogers who is President of the Chicago Park District and President of Ariel Mutual Funds.

Active in Republican politics, Mrs. Mankarious was a close friend of Presidents Eisenhower, Nixon and Bush. She was a longtime civil rights activist and broke down barriers for blacks and women in both government and corporate America.

During the Eisenhower administration, she was assistant U.S. Attorney, the first black woman to hold that post. She was a good friend of Richard Nixon and seconded his nomination for President at the Republican National Convention in 1960. In 1972, she became the Deputy Solicitor General in the Justice Department and later served as U.S. Ambassador at Large for 4 years in the Bush administration and finished her government career as Coordinator of Refugee Affairs.

Her longtime friend, George JOHNSON, founder and chairman of JOHNSON Products, described her this way:

> She gave her legal services to the downtrodden people who could not fight for themselves. She fought for people who could not fight the system. She was a wonderful woman of great accomplishments.

Mrs. Lafontant was a trial lawyer, recognized for being one of the best. She was a founding member of the Congress of Racial Equality, participated in demonstrations and sit-ins. By 1969, she had sat on the board of 15 major corporations, including Jewel Foods, Mobile Oil and Trans World Airlines. She held office in the NAACP and was on the board of the American Civil Liberties Union.

I express my condolences to her son, John Rogers, and his family, and to her husband, Mr. Naguib Mankarious.

The Chicago Sun Times is indeed correct, she was indeed a jewel. America has benefited greatly from her life and her contributions. The annals of history will always remember the impact of Jewel Lafontant Mankarious.

THE POLICE STATE COMETH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. PAUL] is recognized for 5 minutes.

Mr. PAUL. Mr. Speaker, in a police state the police are national, powerful and authoritarian. Inevitably, national governments yield to the temptation to use the military to do the heavy lifting. Once the military is used for local police activity, however minor initially, the march toward martial law with centralized police using military troops as an adjunct force becomes irresistible.

Throughout our history, law enforcement in the United States has remained for the most part a local matter. In recent history, especially since the 1970s, the growth of Federal agencies to enforce tens of thousands of regulations, not even written even by Congress, has changed our attitude toward the proper use of police power as established under the Constitution. While this is annoying to many Americans, many of whom are voicing their resentment, the principle of a centralized police power has become acceptable and unchallenged by our political leaders today.

The emotional frenzy surrounding the war on drugs has allowed Federal police powers to escalate rapidly into the areas of financial privacy, gun ownership, border controls and virtually all other aspects of law enforcement. Many see this trend as dangerous to our liberties while doing little or nothing to solve the problems of violence, gang wars, deterioration of the inner cities or the decline of the public educational system.

The declared justification for military intervention at Mount Carmel, although never substantiated, was that the Branch Davidians were manufacturing amphetamines. This provided the legal cover for army tanks to use the poisonous gas which apparently resulted in the devastating fire in what was a military operation to enforce the law, something which in ordinary times would have been strictly a local law enforcement matter.

Despite the legitimate concerns surrounding nationalization of the police force and using the military to enforce local laws, the House just recently and overwhelmingly approved the use of 10,000 military troops to patrol U.S. borders, none of whom, however, expect to be deployed on the northern border. Rather than addressing the incentive of welfare benefits to legal and illegal aliens, Congress instead reinstated the funding to aliens which was struck in last year's budget welfare reform. The House evidently in its infinite wisdom believes that 10,000 troops will solve many of our social problems.

If this Nation's drug laws are not reconsidered, the tremendous incentive

for quick profits will prevent any success that might otherwise result from more and more armed border agents.

But it is also the psychology behind this effort that so often allows the enforcement process to get out of hand, whether at Ruby Ridge or Waco. So far the military on our southern border has not exactly done itself proud.

In January of this year, the army shot and wounded an illegal immigrant near the Rio Grande Valley. Initially the Army said the alien fired twice at the soldiers and had been involved in a robbery. These facts, however, were never substantiated. Even worse, though, is the case of an 18-year-old exemplary high school student and U.S. citizen named Ezeqaiuel Hernandez who on May 20 was shot and killed after being tracked for 20 minutes. He was wounded but then was allowed to bleed to death. What is more, now that more evidence regarding the shooting has become available, the soldier pulling the trigger is the subject of an ongoing investigation. Perhaps to some, these are minor incidents but the issue of using military troops for routine law enforcement is indeed a serious matter.

According to an article by Thaddeus Herrick in the June 22 issue of the Houston Chronicle, changes in the law permitting the military to be used for law enforcement occurred during the Reagan administration and expanded steadily during the Bush and the Clinton administrations. Currently, about 700 troops are being used for law enforcement, mainly for the purpose of enforcing drug laws. However, with the new legislation working its way through Congress, the numbers could grow substantially. This does not include the 6,000 border control agents already manning the borders, a number which is slated to increase to 20,000 over the next 10 years.

Lawrence Korb, former Assistants Secretary of Defense under Reagan was and remains critical of the trends toward using military troops in this manner. His argument according to Herrick is that soldier's "whole mindset to is to go to war. They try to perform law enforcement but at some points their instincts may take over." This is a good warning which could be equally applied to our troops being used as civil policemen in foreign countries under the United Nations banner, such as has done recently in Haiti, Somalia and now as well in Bosnia. Korb has consistently opposed using the military on our borders.

The Clinton administration, in continuing the process begun by Reagan, defends his doing so. Don Maple a spokesperson for the National Drug Control Policy stated, "We believe there will always be a role for the military in law enforcement."

When the Mexican Government ignored the Mexican Constitution in the 1830s and used the military to enforce civil law in Texas, the Texas settlers would have no part of it. The Texians' strong objection and resistance to military law eventually led to the Battle of San Jacinto. Military law in the colonies led to a similar result. Congress must be more careful in ignoring this principle.

Until Congress addresses the failed policy of a national war on drugs and welfare state incentives which draw aliens across the borders in ever-increasing numbers, this unconstitutional national, centralized police state can only result in more loss of liberties in a never-ending battle fought at the expense of the American taxpayer.

CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. GEJDENSON] is recognized for 5 minutes.

Mr. GEJDENSON. Mr. Speaker, we are close to July 4, and it was not that long ago the President asked us to come to the Congress with a campaign finance reform bill that we would vote on by July 4, get it through the House, the Senate, and bring it to the President's desk.

There has been virtually no action on campaign finance reform. I think I know the reason. There is a fundamental difference between the majority of the Republicans and the majority of the Democrats. Enunciated by the Speaker, Speaker GINGRICH says, "One of the greatest myths of modern politics is that campaigns are too expensive. The political process in fact is underfunded, it is not overfunded."

Now, it is interesting because my colleague, the Speaker in particular, seems to say in almost every other category that there is too much money. If it is feeding children, he says there is too much money. We cannot throw money at the problem. If it is education, he does not want to throw money at the problem. But when it comes to campaigns, he thinks there is not enough money.

I find it very hard to grasp this concept. And if we take a look at what has happened here, things like low-income energy assistance has been cut by 50 percent since 1978. We have had community development banks have gone up 27 percent. Maternal and child health block grants have gone up 91 percent from 1978. Congressional campaigns have gone up 294 percent. It does not indicate a shortage of cash.

What it indicates is in reality that we spend way too much time raising money. And if one is running for the Senate in California, the last race was $14.4 million. In 1992, there was a cheap race for 10.4 million. And we come to an average of about $12.4 million. A winning candidate must raise $39,744 over the course of the 312 weeks to make sure they have the money for that race.

Now, there is a reason why the Republicans basically exercise their class warfare not just in the tax bill and not just in the budget authority and where they want to spend money, but why they want wealth to be represented in the political process, because they have a tremendous advantage.

So when one talks to the Speaker and he says he thinks you need more money, well, they have already got about a $200 million-some advantage in the campaign funding system that we have here today. I do not know how much more of an advantage he wants to have.

My belief is that the democratic institutions we have here ought to represent people and not just a way to funnel money into the political system. Candidates spend too much time raising money. The American people no longer have the confidence they once had in our system. It seems clear unless we change that, we will undermine this institution and all other institutions of this democracy.

When people hear about $50- and $100,000 contributions, they sit back and say, well, my participation does not matter. Why should I volunteer when somebody can write a check for a quarter of a million dollars? Why should I send in $50 or $75 or $100? It is going to disappear in the flood of money that is coming into politics.

We spend too much time raising money. We are losing our voters because of the money in the campaign, and it just is destroying the very fabric of our political system.

Now, what should we do? I think, one, we should make sure we do not rig the system to just give more power to those people who have money. The way I think we solve that is by picking an amount of money that the average citizen could participate in the political process.

I think there ought to be a $100 bill, a piece of legislation which I will enter in the next several weeks which will limit contributions to $100. I then want to put a tax on advertising, on television, radio and newspaper ads and use that money for a match to make that contribution about $700 worth of cash.

Then we need to limit spending. We have to have enough so that a new person can challenge an incumbent. But we do not want to spend our entire lives chasing money and doing fundraisers rather than representing our constituents or maybe even spending some time with our family.

The political crisis that is here is one of confidence in the institutions of this democracy. My parents survived Hitler and fled the Soviet Union to come to the United States, not simply because of its economic success but because this was a country that guaranteed freedoms and provided for participation in its democracy. Young people

and old people alike believe they can no longer access this democracy unless they have a political action committee, unless they have thousands of dollars to give.

Let us give this democracy back to the people. Let us limit campaigns to $100 from an individual. Then I think we will find volunteers flowing back into the political system and participation of average Americans. This should not be a race about money. It ought to be a race about getting people into the system.

□ 1900

TAX CUTS FOR MIDDLE CLASS AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. EHRLICH] is recognized for 5 minutes.

Mr. EHRLICH. Mr. Speaker, I rise today in support of the Taxpayers Relief Act and to talk about the class envy and the class warfare and the strategies that the American people and the producers in this country are absolutely sick of. I want to talk about it in the context of three particular taxes that we will be debating tomorrow in great detail.

First the capital gains tax, Mr. Speaker. Cutting capital gains helps middle-class people, clear and simple. People who pay capital gains need the ability to understand that they should not be penalized for being successful in this society, Mr. Speaker.

Consider these important facts from the Congressional Budget Office: About half of all families in this country own assets such as stocks, bonds, real estate, and businesses that generate capital gains. The elderly, and this is bad news for the generational warfare types in this House, the elderly realize a disproportionate amount of capital gains.

In 1993, those over 65 in this country realized 40 percent of all capital gains, although they make up just 12 percent of the population. They also paid 18 percent of all capital gains taxes. A Joint Economic Committee report in 1993 found that one-third of all taxpayers reporting capital gains had incomes of less than $30,000.

Why do folks in this country, who love to punish producers, who love to punish people who undertake risk in this society, why do they want to not index capital gains? Inflation is an unfair tax on producers in this country. To fight the indexation of capital gains, in my view, is grossly unfair.

The nonrefundable tax credit we have heard other speakers tonight talk about, this aspect of the child tax credit. Democrats claim the Ways and Means bill is unfair because it offers a nonrefundable credit to middle-income families. Over 18 million low-income families in this country receive a tax break already. It is called the earned income tax credit, and we spend $26 billion on that earned income tax credit.

Now folks on the other side of the aisle say that low-income workers should receive another tax break because they pay FICA taxes. And I hope the American people are listening to this argument tonight and tomorrow and in the weeks ahead. Payroll taxes are different from income taxes.

Income taxes, which low-income workers do not pay because of the earned-income tax credit, go to general revenues and are used for Government programs, for general revenue purposes. FICA taxes are earmarked for Social Security and Medicare. Revenues from FICA taxes go to the Social Security Trust Fund and are used to pay benefits under Medicare and Social Security.

Today, low-income workers, like all workers, are required to contribute to the Social Security system. They will receive all of what they pay into that system and more in the years ahead. And it is a very interesting difference between the parties when it comes to fairness, this concept of fairness.

The Democrats seem to define fairness as follows: Middle-income earners, in addition to financing the earned-income tax credit, should also subsidize the retirement and health benefits of low-income workers. In essence, they say it is unfair for the working poor to contribute to the Social Security and Medicare system which will return benefits to them when they retire.

Those of us on this side of the aisle define fairness as follows: All working Americans with kids deserve a tax break. Middle-income workers should not be responsible for subsidizing the payroll taxes paid by low-income workers. We all benefit from Social Security and Medicare, and we all need to contribute our fair share.

Last, the great class warfare attack of 1997, the alternative minimum tax. The AMT passed originally in 1986, Mr. Speaker, as part of the Tax Reform Act of 1986, with all good intentions to make sure that truly individuals wealthy and corporations could not avoid paying taxes, and I am fully in support of that have goal.

But I go to the factories, as many of us do, we talk to the small business people in the capital-intensive industries in this country, and they have got a problem with the alternative minimum tax. Like so many provisions of the Tax Code, the AMT has produced unintended consequences.

Let us be clear what the bill of the Committee on Ways and Means does not do in the way of alternative minimum tax. Under current law, the alternative minimum tax treats investment in business machinery and equipment as income rather than as an expense.

Under the proposal, it does not exempt the wealthy from paying taxes, it does not exempt companies from paying taxes. No companies with taxable income will be able to avoid paying taxes. We should all recognize this simple fact. Enough of class warfare. Enough of class envy. Let us go give a break to the producers and middle class of this country.

REPUBLICAN TAX CUT PACKAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. WATERS] is recognized for 5 minutes.

Ms. WATERS. Mr. Speaker, the reconciliation spending bill that we just passed leaves me deeply concerned about this Congress and where we are heading. The spending package violated the letter and the spirit of the budget agreement and hit hardest at the working and poor families of our Nation that struggle every day to get by.

Before I speak about tomorrow's vote on the unfair Republican tax cut package, I want to say a few words about what we as a body have done in voting for this budget reconciliation spending bill.

While there are many serious attacks on working families in the spending bill, like privatizing portions of Medicaid and food stamps, slashing the Federal funding for those hospitals who serve a disproportionate share of low-income patients, and block-granting children's health care, one of the most serious attacks is against the minimum wage and workplace protections for workfare participants.

The budget reconciliation bill condemns working welfare recipients to second class citizenship. The bill specifically states that benefits provided to these workers in their jobs are not to be considered wages or compensation. With this devious language, the bill denies these hundreds of thousands of hard-working mothers and parents the rights that all American workers now enjoy, and it denies these workers the enforcement and remedial protections of the Fair Labor Standards Act. This is wrong. It must not be retained in the final passage of the bill.

Tomorrow we turn our attention to the other half of our Nation's budget, the tax cut package. The Republican leadership have made their priorities known with their budget proposals.

Their $835 billion tax cut package gives the wealthiest Americans the largest tax benefits and pushes the poor further into poverty. The wealthiest 20 percent of the U.S. population would receive a whopping 87 percent of the net benefits. But the bottom 60 percent would share only 4 percent of these tax benefits. In fact, the poorest 20 percent of the population that has only 4.5 percent of the Nation's after-

tax income would receive none of the gain.

Most of the tax cuts benefit upper-income people. Open-ended estate tax cuts would benefit only the richest 1.5 percent of families. They give the wealthiest Americans deficit busting capital gains tax breaks. In addition, the Republicans have the audacity to propose that these tax breaks for the wealthy be indexed for inflation. And this is the same leadership that is opposed to cost-of-living increases for working Americans.

At the same time, the Republicans' proposal denies the working poor the tax relief they guarantee the rich. The Republicans took the President's education tax package, including the HOPE scholarship, and undermined its goal of reaching the neediest students. The Republican plan would cover only half of tuition costs, even for the first 2 years of college.

The bill also denies the $500 per child tax credit to over 15 million families. It does this by denying the full benefit of the child tax credit to the poorest of working poor, those who are eligible for the earned income tax credit. Contrary to what the Republicans allege, it is only those that are employed and pay payroll taxes that are eligible for their earned income tax credit. They deserve all the help they can get, and this bill denies them this much needed help.

We should not forget that the budget deal was a serious compromise from the President's original budget proposal, which many of us felt fell short of the Nation's needs in many critical areas.

For example, the measly $5 billion requested by the President for education infrastructure, that is, to fix up the Nation's schools, schools with no air conditioning, schools where the heating systems are broken, schools where windows and roofs need repair, all of this was denied, taken off the table because the Republicans said no.

But at the same time, conservative estimates put the real cost of addressing the infrastructure problem at over $100 billion, and we could not get them to agree to $5 billion. And what about a real jobs program that pays a living wage, instead of trying to pay the working poor subminimum wages and deny their workplace rights?

Let us be clear, this Republican tax bill is an outrage. We will all end up paying dearly for it in the end. It will make it much more difficult it address our Nation's real problems.

I urge my colleagues to vote against this unfair tax cut bill and reject this attack on working Americans and poor Americans.

TRIBUTE TO BISHOP EDWARD T. HUGHES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PAPPAS] is recognized for 5 minutes.

Mr. PAPPAS. Mr. Speaker, I rise today to pay tribute to Bishop Edward T. Hughes, the Second Bishop of Metuchen, NJ. Just this past Sunday, the 22nd of June, I attended a mass to celebrate his 50th year anniversary of ordination into the priesthood.

Over the past 50 years, Bishop Hughes has inspired, educated, counseled, and guided thousands in countless ways. So many of the people that I represent have been touched and aided by his kind words and actions. On a daily basis, Bishop Hughes has in a special way comforted those in times of sorrow and been an instrumental part of the joy and happiness of many families and individuals.

Bishop Hughes is a loving man that shepherds his flock with care and gentleness. He is an outspoken defender of the unborn and a foe of racism and bigotry. He fully understands the importance of his mission in spreading the word of God to his community. He has devoted his life to being a shepherd for the Lord by spreading spirituality and grace.

Through his good works and deeds, he has touched all those who have been in his presence. In today's fast paced environment and a world that is often filled with sadness and violence, he demonstrates how each of us can find a place for faith and remember what is good and right.

It was in early life that he, in 1938, at the tender age of 18, dedicated his life to serving Jesus Christ and entered St. Charles Seminary. Since that time he has used his wealth of knowledge to teach history and act as a positive role model for many young people.

Pope Paul VI recognized his outstanding service in 1976 and appointed him auxiliary Bishop of Philadelphia, and he was ordained Bishop in July of that year by John Cardinal Krol. As Bishop he met new challenges head-on and demonstrated his leadership on a national level, most recently as chairman of the National Conference of Catholic Bishops Implementation Committee for the Catechism of the Catholic Church.

In December of 1986 Pope John Paul II recognized what so many Roman Catholics in New Jersey and Pennsylvania had and named Bishop Hughes chief shepherd of the Diocese of Metuchen which consists of nearly a half million faithful. The Diocese has seen unprecedented growth during the Bishop's tenure. He has dedicated more than 15 churches and blessed numerous other facilities.

The Bishop has a keen sense of social responsibility and has reached out to community shelters, clinics, and other agencies of assistance to help those in need. He truly does the Lord's work.

Today there is an increased importance placed on cultural diversity and understanding. The Bishop has reached out to the Hispanic, Asian, African-American, and Portuguese members of the community and increased cultural understanding among these groups while spreading God's love of all people.

The Diocese of Metuchen has been very fortunate to the have him as their Bishop; and on behalf of the citizens of the 12th District of New Jersey, I would like to offer my congratulations and thank the Bishop for the time that he has devoted to the people of the Metuchen Diocese.

Bishop Hughes' motto is "Rejoice in the Lord always," and his life and service have truly been a model of just that.

□ 1915

TAX RELIEF NOW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. NEUMANN] is recognized for 5 minutes.

Mr. NEUMANN. Mr. Speaker, I rise tonight to call attention to how far this Congress has come. In order to truly understand how much this Nation has changed over the last couple of years, since 1995, when there was a change of who was running this place out here, I think it is important we go back to the pre-1995 years and talk about what it was that made the American people so cynical, almost to a point that when somebody out of Washington says "here's what we're going to do," nobody believes him. I thought I would start with the Gramm-Rudman-Hollings Act of 1985.

This was back in the middle 1980's, when Congress started promising the American people a balanced budget. I was not here. I watched this thing very closely from the outside. I was a taxpayer building a business from the ground up at that point in time, working hard every day, and I watched this promise. I watched them promise us that they were going to balance the budget. Their promise was along this blue line in this chart. What they actually did is they followed the red line in this chart.

As my colleagues can see, their promises did not hold up. As a matter of fact, instead of getting to a balanced budget as originally promised in 1991, the deficits exploded. What did they do? They did the Washington thing, and many people in America, myself included, got even more upset with them. They put a new Gramm-Rudman-Hollings bill out. Since they could not meet the first one, they made up a new one. The second one had a blue line again. The blue line shows their promised route to a balanced budget, and the red line shows again what actually happened. The deficit exploded. Why did that happen? They could not

curtail the growth of Government spending in Washington. They just plain could not resist reaching into your pocket, taking more money out and spending more money out here in Washington. There was a fundamental belief out here that the people in Washington knew better how to spend the American people's money than they knew how to spend it themselves.

This is kind of what was going on before 1995. We had the promise in 1985, the promise again in 1987, several more promises along the way. We got to 1993, and in 1993 they said we really do have to get this deficit under control, we know we have made these promises repeatedly so what we are going to do, they decided in 1993, this was the past again, they said we are going to raise taxes on the American people to try and get us closer to a balanced budget. It was the closest vote they have ever seen in this House. In both the House of Representatives and in the Senate, that tax increase that raised the gasoline tax and the Social Security tax, that 1993 tax increase, the biggest tax increase in American history, passed each House by one single, solitary vote. The American people rejected that, because in 1994, they said, "We're sick of the broken promises and we're tired of the tax increases. Washington should not be reaching into our pocket and taking more money out to try and get to a balanced budget."

In 1995, they elected a new group to Congress. They elected the Republicans to take over. The Republicans got here and they made a promise to the American people, too. We laid out a 7-year plan to get to a balanced budget. We are now in the third year of that 7-year plan, and this may very well be the best kept secret in Washington. We are in the third year of our 7-year plan to balance the budget and we are not only on track, but ahead of schedule.

In fiscal year 1996, this red column shows what was promised to the American people. This is the Republican promise of 1995 to the American people. We not only met that target, but the deficit was actually lower. As we started down our track to a balanced budget, the first year was in, and we hit the target.

This is what was promised to the American people in the second year, this red column. The blue column shows where we actually were. We have got 2 years under our belt now not only on track, but ahead of schedule.

Today what we are passing is the third year in this plan, and the third year in this plan is once again on track and ahead of schedule. We are in the third year of a 7-year plan to balance the Federal budget and, very different than the previous Congress, very, very different, we are not only on track but ahead of schedule.

How did all this happen? How did all of this come about? It came about because instead of reaching into the pockets of the American people and taking more money out through tax increases, instead of doing this, the new group that came here in 1995 said it would be a whole lot better if we curtailed the growth of Government spending. If we just controlled the Government spending habits out here in Washington, we would not need to raise taxes to be on track and ahead of schedule in balancing the budget, and that is what we did. Two years into this program, we have reduced the growth of Government spending by over 40 percent. We have literally got our arms around and curtailed the growth of Government spending to a point where today we passed a bill that is going to balance the budget at least by 2002, and we are tomorrow going to pass a bill that allows tax cuts for the American people.

I hear a lot of rhetoric about these tax cuts, but I know the middle-income folks understand what these tax cuts are. In a family of five, the people we see in church every Sunday, those folks know what the tax cuts are. They know if they have got three kids at home, one headed off to college, that they stand to receive $1,000 for the two kids, $500 for each one of them still home, and $1,500 for the one that is going off to college. They do not understand all this class warfare rhetoric, but they sure understand what the tax cuts are. It is a great time for America when we have not only balanced the budget but provided additional tax relief for the American people.

BUDGET RECONCILIATION TAX PROPOSALS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, the tax bill that we are here discussing and in particular the tax bill under the reconciliation package looks good on its face. Federal taxes are cut by a total of $133 billion over 5 years. I believe the American people deserve and want a tax cut. But the devil is in the details of the tax bill. The bill has a phased-in $500 per child tax credit. This is a very important and most needed credit. Most Americans would certainly want that and embrace that. But the bill does not allow the credit before an earned income tax calculation. What does that mean? It means that low-income, struggling working people would therefore not get the same benefit that most Americans would get because they would be denied to have that opportunity as those who make more. Some 28 million children would be denied this tax credit because they do not earn enough money to get a tax break.

Mr. Speaker, I believe the American people would be quite surprised to know, if some have their way, that the days of tax relief only for those who do not need tax relief are not over.

The bill provides for estate tax relief. Again, this is a very welcome initiative that farmers and small businesspersons in my State have been seeking for a long time. But here again the bill phases that relief in, $20,000 a year over 15 years, while immediate and more relief to working families is needed. They need a faster phase-in. That kind of relief really amounts to no relief for low and moderate income working families. They need help now. For generations, these families have struggled to maintain their family farms or their family-owned business, only to face the loss of them when the head of the family passes, and they are unable to pay the estate taxes because their liquid assets are limited.

And with regard to HOPE scholarships, a similar pattern emerges. Under the bill, working families would get $600 in relief, not the $1,500 that was just spoken about. That amount of money does not go far enough to help those families struggling to send their children to college.

The Democratic substitute, however, offers a better plan for lower and middle income families. In HOPE credits, they get $1,100 in tax relief. Estate tax relief is more in keeping with the realities of family-owned businesses. It is phased in at a faster rate and not over a 15-year period. And working families could still take advantage of the $500 tax credit. You do not deny poor working families that which you allow all other families to have.

In addition, the Democratic substitute sets a cap on capital gains. Most people want capital gains. But again a reasonable and a prudent approach given our budget goal is what is needed. And it does not index capital gains to inflation.

It is clear, Mr. Speaker, under close inspection, that the Democratic substitute is far more favorable to low and middle-income working families than the tax bill that will soon be before us that we will vote on tomorrow.

Mr. Speaker, working families in America indeed need tax relief. They want it and they should have it. But they need it now and they need a fair one. I submit that the Democratic substitute provides that necessary relief. The tax bill does not.

MFN FOR CHINA, AID TO BOSNIA IN FLOOD RELIEF BILL, AND DISNEY BOYCOTT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, I rise tonight to mention three very important but unrelated topics. One is the vote yesterday to grant most-favored-nation

status to China. Last year 141 Members voted against MFN status for China. Yesterday 173 voted against this status. This is an issue that is not going to go away and the opposition will continue to grow if the Chinese do not make major reforms and start doing better in relation to human rights. The Chinese should not take yesterday's vote as some type of endorsement of their very repressive policies. This is particularly true in relation to the horrible persecution of millions of Christians going on in China right now.

Michael Horowitz, a leader in speaking out against this persecution and who happens to be Jewish, said in a recent interview with Chuck Colson the following. He said, "I am speaking out on behalf of persecuted Christians precisely because I am a Jew in the most deeply rooted sense. I see eerie parallels between the way the elites of the world are dealing with Christians—who have become the scapegoats of choice for the thug regimes around the world—and the way the elites dealt with the Jews when Hitler came to power. Another parallel is the tongue-tied silence of the Christian community in the face of this persecution. A similar silence was evident in the years leading to the Holocaust. Silence, anybody's silence, in the face of persecution is deadly. So for me," Mr. Horowitz said, "sparking our campaign for awareness and action is the most important thing I expect to do. What thugs did to Jews, they are doing now to Christians. I put it to you, Chuck," Mr. Horowitz said, "Christians are becoming the Jews of the 21st century."

Also, the Chinese must start treating us more fairly in regard to trade. We have a trade deficit with China now at 40 to $50 billion, depending on whose estimate is used. Economists say conservatively that we lose 20,000 jobs per $1 billion. This means we may be losing as many as 1 million American jobs this year to China and we are losing even more to Japan. We cannot continue these huge trade deficits and resulting huge job losses, Mr. Speaker, for much longer without doing great harm and irreparable harm to this Nation. Already while our unemployment rate is very low, our underemployment rate is terrible. As I have said before, we are ending up with the best educated waiters and waitresses in the world precisely because we are sending so many good jobs to other countries.

Secondly, and briefly, Mr. Speaker, it was unconscionable to require us to vote for $2 billion more for Bosnia on the so-called flood relief bill. We sent far more to Bosnia than we did to North Dakota. There is no threat to our national security in Bosnia. There is no vital U.S. interest there. We cannot settle these centuries-old ethnic conflicts even if we pour our entire treasury into Bosnia. We need to put our own people first. We do not need our soldiers and sailors doing international social work. We need to bring our troops home now. I was very disappointed that yesterday we voted down the Hilleary amendment to bring our troops home by December 31. The President originally promised we would have our troops out after one year at the most and that was many months ago.

Third, Mr. Speaker, and lastly, the Hill newspaper reported today that no Members were willing to publicly support the Southern Baptists in their boycott of the Disney Company. Well, I know this boycott will not be successful against this extremely rich corporation. However, I for one, and I am a Presbyterian, not a Baptist, admire and respect the Southern Baptists for standing up for their beliefs and for trying to do what they and millions of people believe is morally right. We need much less sex and violence on television and in our movies and the Disney Corporation is not upholding family values as it once did.

TAXPAYER RELIEF ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today because we are about to take up a bill called by the Republican the Taxpayer Relief Act. If you look closely at this bill, a better name would be "The Rich get Richer Act."

This is no secret, Mr. Speaker. It's in all the newspapers, it's Republican payback time. It's no secret who the members on the other side of the aisle represent. More than half the benefits of the Republicans tax plan go to people who make an average of $250,000 a year. The next 25% of their tax breaks go to those making more than $75,000.

And who gets the crumbs, Mr. Speaker. Who is shortchanging the American working families? As is the usual case when the Republicans talk about relief, they talk about helping their wealthy friends. They are now working to cut taxes on the profits made from the sale of stocks and bonds beyond the amount of taxes paid on wages, they are working to end the corporate alternative minimum tax, they are working to give IRA tax preferences to the top 20% of taxpayers, and they are working hard to cut the taxes on estates that would benefit the top 2% of estates.

Mr. Speaker, the numbers are clear for the Republicans. Help the high incomes, help those in the highest tax brackets and the Republican know that they can help themselves. They know that the big corporations will help them if they end the alternative minimum tax so some of our largest corporations can avoid paying any taxes again. We closed this loophole some time ago and now they want to open it up again. It is no secret who is dancing with the Republicans, where their bread is buttered.

This is the party that cuts out working Americans making less than $15,900, 15 million working, tax paying wage-earners who the Republicans say are getting welfare if they are given the same $500 per child tax credit that Republicans say their friends making more than $250,000 should get.

Let's do the Republican math-make less than $15,900 and you don't need a $500 per child tax credit-make more than $250,000 and you do need the same tax credit. It doesn't take a rocket scientist to see where the Republicans are coming from.

In my own district, in the 18th Congressional District in Texas, the median household income in about $22,000 a year. Will the Republican bill help most of them? Will the tax cuts they are proposing help the majority of my constituents? Will the Republican cuts help the majority of American? How much do the Republicans think the American people will stand for?

This is where the American people can see the clear differences between the Democrats and the Republicans. The Democratic plan—the plan authored by the distinguished Ranking Member of the Ways and Means Committee, Representative CHARLES RANGEL—is a plan that gives tax relief where it is need-to working families, hard working taxpaying families.

The Democratic alternative calls for three-quarters of their tax breaks going to people making less than $58,000 a year. There are tax cuts for small business owners, there are tax credits for the parents of all of our children, there are tax breaks for families that are trying to send their children to college. Sure, the Republicans have their education tax plan, but it wouldn't help those going to our community colleges much.

Democrats have a fairer plan for capital gains cuts-the Republican plan now means that for wealthy investors, they will pay a lower effective rate on the profits of the sale of their stocks than a moderate income family pays on their wages. Democrats would allow those who are forced to sell their home at a loss some tax relief-the Republicans don't. Democrats target a fairer capital gains cut for small businesses and farmers. Our estate tax relief is aimed at giving families who want to pass on their small businesses a break rather than the well off who don't really need these kinds of tax cuts.

Mr. Speaker, it is time for the American people to draw the line in the sand. It is time for the working families out thee to be heard. It is time to stand up and be counted. Who does this House of the People stand for? There is nothing more basic than taxes and the difference between the Republicans tax package and the Democratic tax package is plain for Americans to see. It is time to stand up and really be counted.

□ 1930

OPPOSITION TO THE TAX AND SPENDING PORTIONS OF THE RECONCILIATION BILL

The SPEAKER pro tempore (Mr. TIAHRT). Under a previous order of the House, the gentlewoman from Florida [Mrs. MEEK] is recognized for 5 minutes.

Mrs. MEEK of Florida. Mr. Speaker, I oppose both the tax provisions and the

spending provisions of the reconciliation bill. I want to say why, Mr. Speaker.

The spending cuts that the House approved today fall mainly on the weakest members of our society, on the sick and on the elderly. Tomorrow we will be voting on tax cuts that mainly favor the wealthy. Today the House voted to rob from the poor so that tomorrow the majority can help the rich.

I think that is wrong, Mr. Speaker, and I oppose both parts of this strategy.

According to the Center on Budget and Policy Priorities, the poorest 20 percent of families, those with an average annual income of only $9,200 will get $63 less because of the majority cuts in Federal spending and changes in taxes. Think of this, Mr. Speaker. The wealthiest 1 percent of the families, those with an average annual income of $442,000 come out as big winners. They will have $27,000 more. That means that the extra money they get under this majority bill exceeds the total income of the poorest in this Nation.

I represent many of those people, Mr. Speaker. I seek an appeal to the Congress to look at this bill that has these tax cuts that will not help the poorest of the poor.

The majority here in the House wants to pay for these unfair tax cuts by squeezing large public hospitals like my public hospital in Miami, Jackson Memorial. It helps the poor and that is probably one of the few hospitals that must take the poor.

The Republican majority cuts the Medicare payments to hospitals by $38 billion over 5 years. The reported bill, Mr. Speaker, is one that will certainly rob from the poor. I think that it is wrong, and certainly I oppose this strategy because it does fall on the weakest members of our society. It also cuts for hospitals like my public hospital the disproportionate share payment to hospitals like Jackson Memorial by another 13 billion over 5 years.

You know who is going to take up that cost? The taxpayers, the middle income, the upper income, the poor; someone has to pay that share that no longer will the government assist in sharing enough to help hospitals like Jackson. That is a $51 billion hit on these kinds of hospitals.

These hospitals treat the poorest in our communities. It is the poor who would end up getting less health care.

Yesterday I tried to improve on part of the reconciliation bill by asking the Committee on Rules to make in order my bipartisan amendment to give supplemental security, which we call SSI, the Supplemental Security Income, and the Medicaid to 147,000 legal immigrants who have been living in this country who were in the country last August, but they are not covered by the reported Ways and Means proposal.

You know who is going to have to take care of them and give them the health care? You are, Mr. Speaker, and I and those of us who are able to pay for that because, if you were not poor or elderly or disabled when this bill passed last year, then you are still in this country, and now when you get to be 64 years old and you become disabled and elderly, you are not covered.

I offer this amendment with my dear colleague from Florida [Ms. ROS-LEHTINEN] and we also offer a way to pay for this, Mr. Speaker, for these needy people, but the Committee on Rules refused to let the House vote on our bipartisan way of improving the bill.

Mr. Speaker, we all would like to cut taxes. We know that the time has come that we can no longer spend where there are no resources. We understand that. We know that this is a time of belt tightening. We know that this is a time, as we go into the year 2000, that we must balance the budget. Well, you have decided to do that; the budget agreement has been cut. But this is not the time, not when we are asking the poor and the elderly to pay for the tax cuts.

There is a fair way to cut taxes, but the way of the leadership is the wrong way. It worsens the spread between our wealthiest citizens and our poorest citizens. No one is here to say that poor and middle class people are not supposed to pay taxes, but I am saying that if there is a gap, it should be one that is equitable and that the rich will pay their share as well as the middle income and the poor.

TAX CUTS SHOULD BE FAIR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. SNYDER] is recognized for 5 minutes.

Mr. SNYDER. Mr. Speaker, I thank the staff for putting in yet another late evening here on behalf of the people of America.

Mr. Speaker, I support a balanced budget. I strongly support it and all the things it can do for the business climate in this country. I voted for the budget deal and was one of the two-thirds of the Democratic side that did vote for the budget deal for a balanced budget, and as we know here that includes a tax cut over the next 5 years totaling $135 billion.

Tomorrow we are going to make a choice about what type of tax cut we want, what type of tax cut do we think America would benefit from. And Mr. Speaker, I consider this to be the good side of partisanship, that there is going to be a choice we make tomorrow between the Republican plan and Democratic plan; and we are in the minority party, but we have an alternative that we think is better.

For me the issue comes down to what is the best tax cut plan for Arkansas. That is where I am from. What is going to be best for the working middle class families of Arkansas, for farmers, for self-employed, for the small business folks of Arkansas, for those American who play by the rules, work hard and pay taxes? Let me deal first, Mr. Speaker, with the child tax credit.

I am going to protect last names here, but this is Judy and her two lovely children, constituents of mine in central Arkansas. Judy makes $7.50 an hour. That works out to a total of $15,000 a year.

Now under the Republican plan because she qualifies for the earned income tax credit, a credit that has been supported by every President including Ronald Reagan since Ronald Reagan; because she takes advantage of that earned income tax credit, under the Republican plan, she will not qualify for the $300 or $500 per child tax credit.

Now the argument we hear is that, well, she does not pay income tax, that she does not pay income tax. Yes, she pays payroll taxes, but that does not count. I have a copy of her payroll stub. You know this is what we get every week or month, Mr. Speaker, and we look on here and we kind of get that empty feeling in our belly when we see how much taxes came out of it.

Yes, she pays income tax, but she also pays the payroll tax. And here is what she pays for her Medicare and her Social Security, the FICA tax, the payroll tax, that all employers and all working people in America pay.

Please do not tell her that she does not pay taxes. But because of the way the Republican plan is written, even though she has two children and pays $1,150 a year in payroll taxes, even though she pays that level of taxes, she does not qualify under the Republican bill for a per child tax credit even though she has those two lovely children. She plays by the rules, she pays her taxes. Some reward, Mr. Speaker, for being a good American.

Let me show you another picture. This is another family that are constituents of mine. This is Judy and her two children. Her children are older. She is to the point now she better be thinking about college, and I know Judy well enough to know that she is. She makes approximately $31,000 a year and she will qualify because of her income for the per child tax credit. But let us talk about the college aspect of it.

Under the Democratic plan she will be able to get $1,500, when the full credit kicks in, per child per year for her children's college for the first 2 years. But under the Republican plan she will also get $1,500 per child but it will be calculated differently. It will be calculated 50 percent of the first $3,000 of tuition and expenses. It sounds the same; does it not? They are both going to get $1,500. But it is not the same for Arkansas.

Pulaski Technical College in North Little Rock, the tuition is a thousand dollars, a little over a thousand dollars a year. For Foothills Technical Institute in White County, Arkansas, gods county, Mr. Speaker, if you are looking for a place to move, the total tuition per year is $672 a year. You take 50 percent of that, if you go to Foothills Technical, you will get about $350 tax credit, not the $1,500.

It is just wrong under that Republican bill to tell folks if you go to an expensive school, you get the full $1,500. If you choose to go to a 2-year community college or school like Foothills Technical Institute, you do not get the full credit even though your tuition is under $1,500.

Judy works hard, she plays by the rules, she pays taxes; she does much better under the Democratic bill, not the Republican alternative.

And finally today, Mr. Speaker, I had these letters delivered to my office from farmers throughout Arkansas, my district, and they are concerned, every one of them, about the estate tax. Every one of them is either handwritten or hand typed.

Folks say: Well, estate tax just favors the rich. If you are a small business person or a farmer, you are very concerned about that having to be broken up when you pass away. Under the Democratic plan the relief is immediate. Under the Republican plan the relief is delayed until the year 2007.

TAXPAYER RELIEF ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. MILLENDER-McDONALD] is recognized for 5 minutes.

Ms. MILLENDER-McDONALD. Mr. Speaker, I rise tonight to address one of the most important votes we will cast in the 105th Congress, and that is the tax cut bill. I strongly oppose the Taxpayer Relief Act which we will vote on tomorrow. I do so not because I am opposed to tax cuts. As a former chairwoman of revenue and taxation in the California State legislature, I am for tax cuts. But I am opposed to this relief bill which is not fair.

As the charts behind me demonstrate, the bulk of the tax relief is offered for the wealthiest taxpayers while the low and middle income taxpayers, the ones who live in California's 37th Congressional District, the district I represent, receive only nominal relief.

Mr. Speaker, 56 percent of the Republican tax cut plan will go to the wealthiest 5 percent of Americans, Americans who earn well over $200,000. Under the Republican plan, taxpayers who earn $26,900 to $44,500 will receive only 17.3 percent of the tax cuts. Moreover, for the lowest income earners, those who earn $6,600 to $15,900, the Republican tax cut plan amounts to what is in effect a tax hike.

This is not tax relief, but rather a tax ripoff for millions of hard-working middle class and lower income earning citizens. To provide such a tremendous tax cut to the wealthiest citizens of this country and at the same time increase taxes on American citizens who are earning the lowest income and are in the most need of a tax relief does not make any sense.

The Republican tax bill further denies the $500 child tax credit to 20 million working families who receive the earned income tax credit. This plan does not value their hard work even though their earnings place them at or barely above the rate of poverty, and this is earned income. They deserve the child tax credit as much as any other working family.

The Democratic alternative tax cut plan is the only real tax cut plan. It ensures that all Americans who receive tax relief receive tax relief and not just the wealthiest. Those middle class hard-working American citizens who need a tax cut, those who earn $26,900 to $44,500 will receive 58.4 percent of the tax relief under the Democratic plan. In effect the Democratic alternative shifts the bulk of the tax relief from the top 5 percent to the middle 40 percent of all American taxpayers.

The Democratic alternative tax cut plan also provides an estimated $37 billion in education tax credits, which is almost twice what is offered in the Republican plan. It includes $5.7 billion in homeowner tax credits and important tax relief for small businesses, farmers, and for families with children.

I do urge my colleagues to think about the American people we were elected to serve, to think about the millions of hard-working parents, trying to provide more than the basic needs of food, shelter and clothing for their children, but also a quality education, a healthy and safe environment to grow up in, and most important of all, Mr. Speaker, a quality future.

We must represent the American people and vote for a real tax cut plan that will help all American families.

□ 1945

HISTORIC VOTE AGAINST OUR VETERANS

The SPEAKER pro tempore (Mr. TIAHRT). Under a previous order of the House, the gentleman from Mississippi [Mr. TAYLOR] is recognized for 5 minutes.

Mr. TAYLOR of Mississippi. Mr. Speaker, tomorrow in Congress Democrats and Republicans alike will vote for a tax reduction. They are going to give the wealthiest contributors a big tax break. They are going to give the smaller contributors a smaller tax break. But when it comes to those who in my opinion contributed the most to our country, not with their wallets, but with their lives and with their blood, they are going to get nothing at all.

I am talking about our Nation's veterans and in particular, our Nation's military retirees. Mr. Speaker, today, your Congress had the opportunity to fulfill the promise of free health care for life for our Nation's military retirees, a promise that has been broken, a promise that remains broken every day.

Mr. Speaker, out of this entire yearlong legislative session, today was the only day, according to the Parliamentarian, that legislation to restore to our Nation's military retirees the health care benefits that they were promised could be brought to the floor for a vote, and today I tried to do just that.

I am pleased to tell my colleagues that every single Democratic Member of Congress voted to help our Nation's military retirees, every single one. I regret to inform my colleagues that every single Republican Member of Congress, let me repeat this; every single Republican Member of Congress voted against helping our Nation's military retirees, even though the bill that would have helped them was introduced by a Republican, the gentleman from Colorado [Mr. HEFLEY].

I am a cosponsor of that bill and I am very proud to do so, because after all, if it is good for America, it really should not matter whether it is a Democratic or Republican idea. I am proud to say that every single Democratic Member of Congress took the same patriotic approach to Medicare subvention. They supported bringing Medicare subvention to the floor for a vote, even though the bill's sponsor is a Republican.

Why then, I ask the people on this side of the room, did every single Republican vote against it? Why did the 98 Republicans who cosponsored Medicare subvention vote against bringing it to the floor for a vote, despite a plea from the Retired Officers Association?

I will read a letter sent to me by the Retired Officers Association:

> Dear Representative Taylor: Based on discussions with you, we understand that you intend to make a motion to defeat the previous question, and if successful, to offer an amendment to H.R. 2015, the Budget Reconciliation Act, to allow Medicare to reimburse the Department of Defense for care provided to Medicare-eligible service beneficiaries in the Military Health Services System, a concept we refer to as Medicare subvention. The Retired Officers Association strongly supports this initiative.
>
> Medicare subvention is critical to help honor the lifetime health care commitment. Servicemembers were promised lifetime health care in return for the extraordinary sacrifices of a 20- to 30-year career in uniform. Now, after several rounds of base closures, massive personnel reductions, and the advent of Tricare Prime, most Medicare-eligible service beneficiaries have lost access to military facilities.

Servicemembers did not equivocate when called upon to serve this Nation during years of armed conflict. This Nation should not equivocate on its commitment to provide them lifetime access to military facilities.

This is the list, and I want to submit it for the RECORD, of the 98 Members, Republican Members of Congress, who cosponsored this measure, who will go home and tell their constituents they are for this, they want to help the military retirees, but when the chance comes, the once-in-a-year chance comes to put it into action, voted against it:

HEFLEY, WATTS, NORWOOD, ENSIGN, BONILLA, BARTLETT of Maryland, RAMSTAD, GOODLATTE, LEWIS of Kentucky, BALLENGER, BEREUTER, CUNNINGHAM, HERGER, STEARNS, DAN SCHAEFER of Colorado, MORELLA, YOUNG of Alaska, DAVIS of Virginia, MCHUGH, SENSENBRENNER, REGULA, JONES, SKEEN, SCARBOROUGH, RIGGS, STUMP, MCCOLLUM, CHRISTENSEN, HAYWORTH, WOLF, MCKEON, HUNTER, BAKER, SAXTON, PETRI, SAM JOHNSON of Texas, SHAW, KIM, CALVERT, BATEMAN, SOLOMON, who voted against it in Committee on Rules and on the floor; SHADEGG, MCCRERY, TIAHRT, FOLEY, PORTER, BILBRAY, PRYCE of Ohio, who voted against it in the Committee on Rules and on the floor; RILEY, POMBO, GRAHAM, BONO, CANADY, WELDON of Florida, PARKER, METCALF, WAMP.

Mr. Speaker, I will submit the remainder for the RECORD.

CAMPBELL, KELLY, HASTINGS, WA, SMITH, NJ, SMITH, TX, WICKER, CALLAHAN, KOLBE, BARTON, TX, LINDA SMITH, WA, GRANGER, LAHOOD, COLLINS, PAXON, DOOLITTLE, HANSEN, LINDER, HUTCHINSON, ROHRABACHER, HOSTETTLER, EMERSON, NETHERCUTT, DIAZ-BALART, EVERETT, WELLER, NEY, COMBEST, PACKARD, TALENT, MCINNIS, TAYLOR, NC, BOB SCHAFFER, CO, GALLEGLY, SHIMKUS, HORN, CHAMBLISS, CHENOWETH, FOX, PA, and GIBBONS.

Mr. Speaker, I want to remind people that this is the only chance we are going to get to vote on Medicare subvention. Do not go home for the Fourth of July parades and tell the veterans you are with them because they now know, and the CONGRESSIONAL RECORD will reflect, that when given the opportunity to do something for them, or do something for NEWT GINGRICH, you voted for NEWT GINGRICH and against our veterans.

Mr. Speaker, I include for the RECORD the material referred to earlier during my special order.

THE RETIRED OFFICERS ASSOCIATION,
Alexandria, VA, June 25, 1997.

Hon. GENE TAYLOR,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE TAYLOR: Based on discussions with you, we understand that you intend to make a motion to defeat the previous question, and if successful, to offer an amendment to HR 2015, the Budget Reconciliation Act, to allow Medicare to reimburse the Department of Defense for care provided to Medicare-eligible service beneficiaries in the Military Health Services System—a concept we refer to as Medicare subvention. The Retired Officers Association strongly supports this initiative.

Medicare subvention is critical to help honor the lifetime health care commitment. Servicemembers were promised lifetime health care in return for the extraordinary sacrifices of a 20- to 30-year career in uniform. Now, after several rounds of base closures, massive personnel reductions, and the advent of Tricare Prime, most Medicare-eligible service beneficiaries have lost access to military facilities.

Servicemembers did not equivocate when called upon to serve this Nation during years of armed conflict. This Nation should not equivocate on its commitment to provide them lifetime access to military facilities.

Medicare subvention will help honor that commitment while saving money—a "win-win" proposition for Medicare, for taxpayers and for those who served.

Sincerely,

MICHAEL A. NELSON,
President.

CUTTING MEDICARE BENEFITS TO THE ELDERLY TO PAY FOR TAX CUTS FOR THE WELL OFF

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. OLVER] is recognized for 5 minutes.

Mr. OLVER. Mr. Speaker, the fat is in the fire. Today this House passed, with an almost unanimous vote on the part of the Republican Members, a bill that is going to cut $115 billion out of Medicare, which is going to end up producing lower-quality health care at higher costs for my mother, for all of the Members of this body for their mothers and grandmothers and grandfathers as well.

Tomorrow we are going to end up debating the tax bill, which the Republicans paid for today by the cuts in Medicare, and in the process of passing that bill they refused to protect, to renew, to affirm the promise that had been made to our veterans of a lifetime of health care for people who had served in the military services, and that is particularly important for the 12 million or so, or the remainder of the 12 million American veterans of the Second World War.

Well, Mr. Speaker, the more things change, the more they are the same. As Yogi Berra once said, deja vu all over again. That is what has happened here. Throughout the 104th Congress, the fight in this House of Representatives and in the Senate was over the massive cuts in medical care for senior citizens that were virtually equivalent to the total amount of the tax cuts that were going to be given, and here we are again, cutting Medicare, and that is rather similar, very similar to the amount of dollars that are needed to pay for the tax cut that comes next.

Mr. Speaker, the President and the Congress have made a balanced budget agreement, and there are going to be tax cuts as a part of that agreement. There will be tax cuts.

But the question that we are going to be deciding tomorrow, who is it that are going to get the tax cuts? The question is, who do Members of the Republican Party care about and defend and fight for, and who do Democrats care about and defend and fight for?

Well, the Republican plan for tax cuts and the Democratic alternative tax cut plan show clearly who Republicans and Democrats care about and fight for, and we will see that very clearly tomorrow, and in the days ahead. We will see it again and again in the days ahead.

Mr. Speaker, the Republicans have called their tax plan good for the middle class, and they say that their plan gives tax breaks to working families who really need it. This chart tells a somewhat different story.

The Republican plan, which is the plan that is in blue, gives almost two-thirds, 64 percent, of the tax reduction to one family out of six in America, those families, the 19 million families that already earn more than $100,000 a year. The Republican plan gives that one family out of six 64 percent of the tax reduction. Over here, the other five out of six families get 36 percent of the tax reduction, including that great middle class who have incomes between $25,000 and $100,000 a year, that great middle core of the American people, the middle class in America, and they get 36 percent of the tax cut.

The further great irony about this is Member after Member from the Republican Party has stood up tonight and talked about class warfare. Well, there is nothing that shows the class warfare better than to show that graph that shows 64 percent of the tax reduction in their plan going to one family, the wealthiest family out of every six families in the country. That is the class warfare that is involved. And the great irony is here that it goes even beyond that, because if we take this group of five out of six families over there in the blue piece on the left, the part that are going to get 36 percent of the tax reduction divided among them, it turns out that two out of those five, two families out of those five whose income is less than $25,000 a year, they are going to get nothing from the plan. That is the extent of the class warfare which is involved in this legislation which we will take up tomorrow.

TAX RELIEF FOR AMERICANS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Missouri [Mr. HULSHOF] is recognized for 60 minutes as the designee of the majority leader.

Mr. HULSHOF. Mr. Speaker, obviously the topic of choice is the upcoming vote. I have been sitting here patiently for about an hour and a half waiting our turn for this special order

and have consistently heard on the other side of the aisle about these tax breaks which we will have a chance to visit about and hopefully get the rest of the story out there, because I think unfortunately, too much rhetoric has been spewing out and we want to set the record straight.

I want to start this time that we have, Mr. Speaker, and relate to my colleagues something that happens on a regular basis when I go back to the Ninth Congressional District of Missouri. Hardly a day goes by, when I make it back every weekend, when I am not stopped at the supermarket or at the church or at some function back in Missouri, and a constituent comes up and says, Mr. HULSHOF, I am working longer, I am working harder than ever, and yet I barely have anything left over in my checkbook at week's end. When is Washington going to give me a break?

Well, Mr. Speaker, I am happy to announce that if tomorrow goes as we hope, we want the American people to know that tomorrow is the day they get a break. Tomorrow is the day that we let the American people know that we have been listening to them. We have heard them loud and clear.

I want to take these few minutes that we have, and some other colleagues in the Republican freshman class, and others to talk about some of the specifics. It is easy to paint pictures with a broad paintbrush. I think we need to talk about more specifics in this tax package and why it is good for middle America, why it is good for small business, why it is good for family farms.

For too long, Mr. Speaker, Washington has continued to spend and waste billions of dollars of Americans' tax money. From midnight basketball to dance lessons for convicts to $500 toilet seats for the Pentagon, Washington's spending has been out of control for too long. It is time for us here in Washington to spend less and to tax less. That is right. It is time for Washington to give hardworking Americans some much-needed tax relief.

□ 2000

Mr. Speaker, we have over a dozen colleges and universities in the Ninth District, and a lot of times, Mr. Speaker, I am invited to address or speak to some of the political science classes at the universities; in fact, some of the middle schools, elementary schools, and high schools that I have had the great opportunity to address.

One simple question that I get, oftentimes, is what is the difference between the two parties? What is the difference between the Democrats and the Republicans? I think the answer is somewhat simple. I have been here almost 6 months, and I tell those young people, soon to be voters, that both parties believe very passionately in democracy. Both parties, I believe, honestly are trying to achieve a better America.

I just think oftentimes, though, our vision on what will get us to a better America, that is what is the difference. Probably the single greatest difference between the two parties is the fact that we Republicans deeply believe that America is an overtaxed Nation. We believe it is a matter of principle that hard-working men and women in this country should be able to keep more of what they earn. We believe it is time for Americans who happen to be tuning in tonight, that they should not have to work so hard for the government to spend so much. We believe in tax relief for every stage of one's life.

For instance, do the American people really understand that they pay more in taxes than they do for food, clothing, and shelter combined? Do the American people understand that almost half of their income goes to a government tax of some kind?

Think about that, just for a minute. In your normal daily activities, when you wake up in the morning, grab that quick cup of coffee on the way to work, you have paid a sales tax on that cup of coffee. When you drive to work, you pay a gas tax. When you are at work, you are paying an income tax. Flip on a light and you are paying an electricity tax. Flush the toilet, there is a water tax. Get home at night, you pay a property tax. If you turn on television, sometimes you are going to pay a cable tax. When you die, many of us are going to have to face a death tax. It is just too much, and it has to stop. If we have this vote tomorrow, Mr. Speaker, we will have a much-needed step in the right direction.

Why is it, when anybody talks about allowing working families to keep more of their money—in fact, earlier tonight colleagues on the other side of the aisle said, when we were talking about keeping more of their money, they talk about ballooning the deficit, or wrecking the economy. Why is it that we never hear "It just can't be done" when it comes here in Washington to spending less of Americans' tax money? Why is it always unwise or risky if you want to keep what is rightfully yours, but it is never unwise or risky if Washington wants to spend more?

That is, Mr. Speaker, what I think we have accomplished today, and what we are going to accomplish tomorrow in this much-needed tax relief package.

I see that some of my colleagues are here, especially my friend, the gentleman from New Jersey [Mr. PAPPAS], who has been a champion particularly as it relates to tax relief for those who are trying to make a go of it in their homes, particularly with the home office deduction. I am not sure if that is specifically what he wants to talk about tonight, but I am happy to yield to my friend, the gentleman from New Jersey [Mr. PAPPAS].

Mr. PAPPAS. Mr. Speaker, I thank the gentleman for yielding to me, and for focusing on this special order and focusing on such a fundamental issue for the people of our country.

No, I want to talk about the death tax. Why I want to talk about the death tax, Mr. Speaker, is yesterday I received almost 30 letters from farmers in the Twelfth District of New Jersey, central New Jersey. Some of them, as Members can see, Mr. Speaker, were handwritten, some of them were typed, some of them obviously used laser printers, some used rather old typewriters.

But I would like to just briefly read a few of the sentences from some of them, without using any names, but I think really it describes very, very vividly what so many people in our country are feeling about their hope for the future of their farm and the opportunities that their children would have to continue the tradition of the family farm in the United States.

This is addressed to me:

Dear Congressman Pappas: My wife and I own a farm in Hopewell Township. We were originally a dairy farm, but now raise crops such as wheat, corn, and hay. Seventy years ago I was born on this farm and have been working on it all my life. It has been in our family for almost 100 years, and is our major source of inheritance to give our children.

Please repeal the Federal estate tax so all our hard work of keeping this farm will not be in vain. We want our children to have a better life without worry than we have had, because when we inherited the farm we had to pay heavy estate taxes. This should not be taxed again.

Another letter states:

We own a farm in Pittstown which we have worked hard to maintain. We have paid the taxes on our land. We have paid income tax on the profits we have made, on improvements, and on the farm machinery necessary to keep it running. It is unfair to impose yet another tax on the value of our property when we die. This should not be legal.

Please consider this letter as our vote to do away with the death tax. We do not wish our heirs to have to sell the family farm in order to send more money to Washington. If our farm were to be sold, it would undoubtedly become just another housing development in our already overcrowded State. Please do not let this happen. Vote to abolish the estate tax.

There are two more, if I may.

I have been a dairy farmer in Hunterdon County for over 60 years. During the past several decades I have witnessed the near extinction of family farms in the State of New Jersey and their replacement with hundreds of residential developments. Many reasons exist for the decline in farming, but a major obstacle to the continuity of farming from one generation to the next is the Federal estate tax. Family farms are being forced to sell off major portions of their land to pay these taxes.

I am writing to request your support for the repeal of the Federal estate tax. I would like to be able to keep my farm in the family and to offer my son and my grandson the opportunity to continue to farm into the next century.

Dear Congressman Pappas: This letter is asking for a repeal of the Federal estate tax.

This is unfair to families like myself, where the farm has been in the family for 200 years. It is a break-up of the mom and pop farm which has made this country what it is. Entire families have helped, from children who put stones on fences, as my husband did, who picked potato bugs off potato plants, as my uncle did, who put corn husks in hired hands' bedding, as I did.

The last one, which is just two sentences I would like to refer to, is from a lady who says, "Dear Congressman, I write this letter to you in memory of my husband. Our farm is located in Tewksbury Township, Hunterdon County, New Jersey. My husband was a dairy farmer and crop farmer for 50 years. He devoted his entire life to farming.

Please repeal the Federal estate tax. Our son has the hope in his heart to continue farming. To repeal the Federal estate tax will make this hope a reality. Thank you so much for your consideration of this letter.

I would just like to hold this letter up, without showing the name, but she has a photocopy of her late husband as a young man sitting on his tractor, with a poem about him and what the farm meant to him.

Mr. Speaker, my colleague from Missouri, and now I see my colleague from Kansas, this is absolutely critical to allow family farms to continue to exist in our country.

Mr. HULSHOF. Mr. Speaker, in addition to the letters and support of relief from this punitive estate tax, has the gentleman received any letters urging us to continue the estate tax? Has the gentleman received any letters from his district in New Jersey urging us to put a heavier tax burden on family farmers or family businesses?

Mr. PAPPAS. If the gentleman will continue to yield, Mr. Speaker, absolutely not. This is, I believe, the single most important thing we can do to see the American dream a reality be continued, to have family-owned businesses, family-owned farms to be passed from one generation to the next.

The American dream for many people has become the American nightmare. Decisive action by this Congress to work towards incrementally raising the exemption but to eventually eliminate this estate tax, we owe it to the American people.

Mr. HULSHOF. Mr. Speaker, I appreciate the gentleman's comments, and I look forward to moving toward repeal. I know that the tax package that we have tomorrow, Mr. Speaker, does not accomplish the entire repeal of this very punitive tax.

Early in this Congress, as Members know, I introduced a bill with the gentleman from Illinois [Mr. CRANE] to repeal the death tax. We are moving in the right direction. What I want to do, I see my friend, the gentleman from Kansas, here, but before yielding to him, I know, and I cannot recall which speaker on the other side of the aisle misspoke, and I am sure it was an inadvertent misspeak, regarding what this tax package actually does. We phase up the exemption.

Right now the $600,000 exemption that precludes estates from being taxed was first instituted, I think, in 1987, and has not been indexed for inflation. What we are going to do is increase the exemption with tomorrow's tax relief package up to $1,000,000, not in 17 or 20 years, as I think the gentlewoman from Carolina mentioned, but actually over the next 10 years. We will phase it in, $650,000 in 1998 up to $750,000 in 1999, and then eventually up to $1 million by the year 2007.

I know the Federal death tax is something my friend, the gentleman from Kansas, is interested in. I am happy to yield to the gentleman from Kansas [Mr. MORAN].

Mr. MORAN of Kansas. Mr. Speaker, I appreciate the gentleman from Missouri yielding time to me. I did not necessarily know what I was going to speak about tonight, but I can certainly join in the remarks of the gentleman from New Jersey, because estate taxes are clearly a problem in our economy.

As I have listened over the last 6 months as a new Member of Congress, as I listened in 6 months of campaigning for this office to the people who live in the 66 counties of the western three-fourths of the State of Kansas, taxes are at the top of the list. They are at the top of the list because we have sapped the possibility of growing this economy, of creating new jobs, of creating a family lifestyle that is conducive to mom and dad both being at home.

So much of our effort as parents now goes into making ends meet, and so tomorrow when we debate and vote and hopefully pass a significant tax reduction, this may be the vote on the House floor that in the 6 months that I have served in this Congress may actually cause me to feel the best about my voting, because it is so important to us. It is so important to America, to its families, to its individuals, to our workers, to our business, to send a message that we hear loud and clear what the tax and regulatory environment created by Washington, D.C. does to America.

The death tax that the gentleman from New Jersey mentions is a perfect example. It destroys the hope, the hope of many American small business men and women, the hope of the family farmer, to pass on that farm or that small business to the next generation. It destroys the hope that the next generation can continue to earn a living, particularly in rural America.

My district is composed of people just like that, people whose incomes are not very high, but who have worked hard to develop each and every business and farm into as successful an operation as it can be, and to develop and to create wealth for the next generation.

Where I come from people are not knocking on our doors to take over that family business or that family farm. They are hoping that they can scrimp and save and create enough wealth that the next generation, that son or that daughter, has the opportunity to continue that farming operation or that small business, and unfortunately for Kansans and for Americans, for farmers and small business men and women, the death tax makes that very difficult.

Mr. Speaker, I did not realize until I got to Congress that the death tax raises only 1 percent of the Federal revenue. For all the havoc it creates on businessmen and women, on families, and on farmers, it is amazing to me that it only generates 1 percent. We go through so much pain and agony for $16 billion.

I come from Kansas, where $16 billion is still a heck of a lot of money, but in the overall scheme of this Federal budget we have created a nightmare for next to nothing. Worse than that, 65 percent, Mr. Speaker, of every dollar that we raise in estate taxes goes to collect and enforce the tax.

In fact, the Small Business Administration in 1992 actually estimated that 75 cents of every dollar collected went to collect and enforce the tax. What a crazy system, that would suggest we are going to spend 75 cents to collect $1. This tax really does need to be abolished. I know tomorrow we do not accomplish that, we do not accomplish everything we want in this regard, but it is a step in the right direction.

Who would think that we would be talking about reducing taxes? As I sat at home in Kansas and watched Congress over the last decade, we have talked about tax reductions year after year after year, we have talked about capital gains tax rate reductions, and increasing the exclusion for estate tax. We have talked and we have talked and we have talked. Now, for the first time in 16 years, we actually have the possibility of making a difference, and it will be more than talk hopefully after tomorrow.

This tax is so deadly, it kills business. Seventy percent of all family businesses do not survive the second generation. Eighty-seven percent of all businesses, small businesses, are not passed on to the third generation. Clearly, the $600,000 exemption is outdated. That exemption has been in place for 10 years, since 1987. If it was indexed for inflation, we would be talking about an exemption of $840,000.

□ 2015

This tax is bad for business. Sixty percent of businesses say they would add jobs in the coming year if it were not for the death tax. The economy would be $11 billion more productive without death taxes, according to the Heritage Foundation. And unfortunately this tax is good for attorneys

and accountants. We certainly want them to have success in their businesses as well but think of the amount of resources and energy that goes into trying to avoid this tax. We spend almost $11,200 on the average, people do, in order to avoid this death tax by estate planning. So people who have access to professionals, people who plan their affairs, they fare better perhaps, having spent all that money to succeed. But think of all the people who do not know that is an option. Think of how inefficient it is that we spend money. So many people in this country do not have the opportunity to do what they know is right for them, for their personal finances, for their business success because they have to worry about estate taxes.

We need to get a tax system, we need to eliminate taxes that create so many impediments to people just doing what they know in commonsense everyday judgment would be good for them, their families and their businesses.

Forty-three percent of death taxes are paid on estates that are less than a million dollars. This is not a tax reduction that benefits the wealthy. And like the gentleman from New Jersey, I selected at random comments from my constituents. These are not people who are paid lobbyists who presumably sit outside the door and tell us how to vote on tax issues. These are people from home who face every day problems in trying to make ends meet and trying to pass on assets to the next generation, to their own sons and daughters. Many of them are farmers, many of them are small businesses.

Dear Jerry. This is a letter to the President, Mr. President, consider that 2,000 acres of farm ground in our family farm is worth about $500 an acre. You add in equipment and cattle, you are already up to a million dollars. After talking to a couple of implement dealers, they discovered that in 1986, a combine cost $139,000. Today it costs $14,000. A tractor that went for $45,000 just about 10 years ago is now $105,000. Take into account all those things and how do you save enough money to pay the estate tax upon your death? The answer is, it cannot be done and, therefore, the land, the cattle and the equipment will be sold in order to pay the taxes, leaving my son, my daughter, without the opportunity to continue in what already is a very difficult and risky business.

These people say, since the time that the $600,000 exemption was put into place, the costs to get in and stay in the farm business have greatly increased. This makes it very difficult for a father who wants to let his son continue the family farm after his death to leave him enough land, machinery and capital to continue to operate. We have watched young farmers have to sell their land to pay the taxes after their fathers die and not have enough money for a viable farming operation.

This person understands that the tax only raised 1 percent of Federal revenue. One percent of tax revenue flowing into the Treasury causes more trouble and grief to family business owner survivors than it is worth. Amen. That is true. The tax remains a burden on the family for years after death. Many farms have enough difficulties managing the loss of the primary owner, and then to have to pay taxes at a marginal rate of 55 percent, which when this tax was started the marginal rate, the highest rate was only 10 percent, today it is 55 percent, this violates the fundamentals of capitalism on which this country was founded.

With three generations actively farming, the repeal of the estate tax would allow us and other family farms and businesses to spend our time dealing with the challenges of the changing competitive world market instead of limiting our abilities due to the uncertainty of future tax burdens. Please repeal this cancer that cripples also the entrepreneurial spirit exhibited by small businesses across this great country.

This lady: Why should one work most of her life in building up her farm business and other assets to have it taken by the estate tax? The amount allowed today is too low, because with the inflated prices one is still subject to paying large taxes.

These are letters from Smith Center, Kansas; Elkhart, Kansas; Jamestown, Kansas; Jetmore, Kansas. These are people who understand on a day-to-day basis how difficult it is to succeed in business, to succeed on the farm and it is time that we move forward toward making their lives a better life for them and future generations.

I worry, Mr. Speaker, that we have not done what we need to do to convince the American people. We hear their problems, we understand that if we do not make changes today, they and their children will not have the opportunities that I and my parents had because they lived in a different world where government did not take the tax bite, time and time again, from birth to death.

Mr. Speaker, I rise in support of elimination of the death tax. I rise in support of our efforts tomorrow to begin the process. I hope that before the day is over, we could have smiles on our faces and the American people will know that we heard their message loud and clear.

Mr. HULSHOF. Mr. Speaker, the letters that you have with you and I think probably each of us have received from our individual constituencies typical letters of that; this is America, the backbone of our economy, small business, family farms who are crying out for relief. I had a unique experience today, running out of the office for our last vote and I bumped into a very nice woman, not a constituent but from Indiana, who had come 600 miles simply because we were getting ready to vote on this tax package tomorrow. She hand-delivered to me a letter. She is hand-delivering letters to almost all the Representatives and Senators here in Washington. And she visited with me a little bit about her plight. She retired as a court reporter to take care of her mother who needed some care, retired from her business and then her mother unfortunately passed away, I think in September of 1996, and then suddenly she had to face the reality of coughing up additional moneys to pay this heavy tax burden, this very punitive tax.

The letter that she gave me, and I would love to read it, but in the interest of time, I see my friend from Montana here as well, this sentence sums up everything when it comes to the Federal death tax. Quote, the time has come when death should not be a taxable event. Amen.

Mr. Speaker, I yield to the gentleman from Montana [Mr. HILL].

Mr. HILL. Mr. Speaker, I thank the gentleman from Missouri. I want to echo the comments of the gentleman from Kansas about the estate tax. I have had over 40 meetings since January in Montana. At every one of those town meetings people asked me about the death tax. The death tax today is the largest single threat to the family farm or ranch. What is happening in Montana, families are having to sell or liquidate their farm and ranch. In many instances they are being forced to subdivide those family farms and ranches in order to pay this tax. We have to keep in mind that this is not a tax on the heirs. This is a tax on the deceased. As the gentleman mentioned, it is time that death was not an event that created a tax burden.

I also want to point out that there is a link between the estate tax reform and capital gains tax. Because one of the things that many people do in planning their future, planning their estate is to in some combination give the property to their children, leave it in an estate or sell part of it in order to secure their own retirement. That is why it is so important for us to start with the capital gains tax reduction, which of course is part of the tax reform package that we are going to pass tomorrow.

I would just like to point out to my friends here in the hall and our colleagues that there are some arcane parts of this tax reduction program tomorrow, too. There is one that was particularly important to me because it was the first bill that I introduced as a Member of the Congress. That is to deal with the unfair alternative minimum tax calculation on deferred payment contracts for people in agriculture. I know that the gentleman

from Missouri is familiar with that because he is on the Committee on Ways and Means. The IRS determined that those people who sell grain, for example, on a deferred payment contract were going to be obligated to pay the tax even though they had never received payment. And not only did they decide that they were going to have to do that, they decided that they were going to have to retroactively have to do it to 1986.

What in the world can a person do today to control their income that they received in 1986? It was an incredibly unfair decision on the part of the IRS. The first bill I introduced was a bill to rescind that decision. That is part of the House package on tax reform. There are other provisions, too. One of the unique provisions of this is that small businesses who invest in plant and machinery, who have a high depreciation because they are aggressively trying to have their business grow, can run into an alternative minimum tax problem. That is, they could be losing money and have to pay taxes under the alternative minimum tax because of the amount of depreciation, because they are too aggressively investing in their business, because they are too aggressively trying to create opportunities for people to go to work.

This bill helps deal with that problem, too. It eliminates the use of depreciation as triggering the alternative minimum tax. Those are small provisions, but they are all part of what we are trying to accomplish here, and that is to create an incentive for people to invest in creating new jobs, to increase the rate of growth in our economy and to raise the living standard of Americans and American workers.

Before I leave this subject, I also want to point out, it was important to me throughout my campaign and throughout my service here that we have got to help working families. Today, as the gentleman pointed out earlier, the gentleman from Missouri, the average working family is spending 40 percent of their income in taxes. They have one job in the family to support the government and a second job to support the family.

We make a down payment in reducing taxes for those working families with the $500-per-child family tax credit as well as some tuition tax credits. That will mean that a child born today under the provisions of this bill that we are going to vote on tomorrow, their family will save about $10,000 in taxes if they decide to go to higher education after graduating from school.

I am proud to be a part of the effort to pass this legislation. From my perspective, this is only a down payment on tax reduction. I know also that we are going to see more economic growth. We are going to see more opportunities. We are going to see a rising living standard, and the result of that is more revenues for government that are going to allow us to even reduce taxes further in the future.

I thank the gentleman from Missouri for allowing me to join him in this discussion this evening.

Mr. HULSHOF. Mr. Speaker, I appreciate my friend from Montana and his eloquent words, particularly with the AMT provision as it was penalizing farmers, the IRS, as you pointed out, changing rules in the middle of the game. I know that this actually occurred in a case up in Washington State where a farm family was audited. And because the IRS decided that if you defer your contract payments, in other words, when you take your grain to market and you get the check at the grain elevator, normally that is when income is derived according to the cash basis accounting system; that the IRS decided, no, not when you deliver your grain to market but when you enter into the contract in the preceding calendar year, that is when that deferred payment is subject to income.

Mr. HILL. Mr. Speaker, the gentleman is absolutely correct.

As a matter of fact, in 1986, Congress asserted in the law that agriculture would retain the cash basis accounting method. That meant that when you got the cash you paid the tax in that year. But the IRS determined by executive action, I guess, if you would call it, that Congress did not know what it was talking about. So it decided they would use the alternative minimum tax method of determining whether or not that was income or not.

The result was people were having to pay taxes on income they did not receive, clearly unfair. And I am proud of the fact that this measure that you worked so hard on in the committee is going to deal with this problem.

Mr. HULSHOF. Mr. Speaker, I appreciate the gentleman's comments. Certainly we tried to, in this package, not only help families, which we will have some time to visit with here in a minute, I see my friend from Texas is here as well.

The farm community is getting much-needed relief in tomorrow's tax package. We talked about the AMT provisions. We fought very hard to make sure that the pro-ethanol tax incentives, they are intact in tomorrow's package. There will be no anti-ethanol provision. That was quite a battle we had in our Committee on Ways and Means.

But fortunately, the package tomorrow that we have will not have any anti-ethanol provisions. I know we talked about the death taxes, which will help family farms. I was fortunate to have a farm co-op bill that will actually help the sale of processing facilities to farmer-owned co-ops, so that is in this tax package as well. So agriculture is getting some help in tomorrow's relief bill.

Mr. HILL. Mr. Speaker, I think it is important also to understand that this bill is going to restore the home office deduction, which is something that I fought for, another bill that I was a cosponsor on. Also it begins the process of helping us redefine independent contractors. That has been an issue in Montana, because we have so many self-employed people who offer services to others as an independent contractor. And the tax law is so confusing between State and Federal tax law.

This is an effort to simplify that and allow both the person offering those services and the person accepting those services to know that they are truly an independent contractor. So they are not going to have the IRS come out later and determine that there was some other status.

The important provision there is what we call a safe harbor provision; that is, that if you entered into an agreement with a person or offered your services in agreement with a person and there was a reasonable expectation that that was done in concurrence with the law, then there is a safe harbor. The IRS cannot come out and later say, no, we will reinterpret this and impose penalties and fines.

□ 2030

The record is clear. When the IRS does that, it usually puts the people out of business because the penalties can be so severe. It is not fair to people who employ independent contractors, and it deters people from starting a business where they are going to offer services.

I pointed out before to my colleagues that we have some unique kinds of people offering services in Montana. We have farriers, and we have ditch riders, and in agriculture and around, I have sheep shearers in Montana, people that go from ranch to ranch or from farm to farm offering their services; and there is a question whether or not those people are independent contractors.

This will create a safe harbor and makes the test so much simpler, so that is an important provision. It has not been reported widely in the press, But it is important to the people, the people of my State and the State of the gentleman from Missouri [Mr. HULSHOF] as well.

Mr. HULSHOF. Mr. Speaker, reclaiming my time, I am glad the gentleman from Montana [Mr. HILL] mentioned home office deduction.

A couple months ago I was able to participate in a field hearing that was actually conducted by the gentleman from Missouri [Mr. TALENT], who is the chairman of the Committee on Small Business. This was a field hearing in St. Charles, Missouri.

We had testimony at that field hearing from four women just regarding the home office deduction and why it was so essential that we give them some

help. Right now, the IRS takes a very dim view of those who take a deduction that have offices in their homes, and I think this tax package tomorrow will help those women or those families and just restore some fundamental fairness.

For instance, if the gentleman had an office that he rented in his next door neighbor's home and he had a telephone line and fax machine and had some other things, and he paid rent in his next door neighbor's home for an office in that home, he could take that as a fully deductible expense. But if he had those same things in his home, the telephone line, the fax machine, he cannot in most instances take that deduction.

Of course, many women who want to rejoin the work force, their families have grown or their kids are going to school, they like to have the flexibility to stay home and yet be able to rejoin the work force, or start businesses and run them from their homes. So I think this tax package is very friendly to those individuals, men and women, that seek to use their homes and put offices in their homes.

Mr. HILL. If the gentleman would yield, I think it is important for us to remember that Henry Ford built the first Model A in his garage and Bill Gates started Microsoft in his garage. People start many small businesses today in their home or in their garage, and one of the things they need more than anything is cash flow in order to grow their business.

We are not talking here about providing people a deduction, a loophole. We are talking about people being able to deduct a legitimate expense in the conduct of their business. But by virtue of the fact that they operate it in their home, they may not be allowed that. Under this bill that would change. The people that start these businesses in their home would be able to be protected, not to pay taxes that others would have to pay.

Why is that important? Well, it is important because today most people start a business in their home. As the gentleman started out, most of the people starting these businesses today are women. This is one of the ways that we are creating more entrepreneurial opportunities for women, is by allowing them to have this deduction. It is extremely important.

It does not have a lot of impact on the budget, but it is going to have a lot of impact on our communities and on the future of this country, because many of those businesses also grow into very prosperous enterprises employing a lot of people. That is what this is about.

Mr. HULSHOF. Reclaiming my time, I appreciate the work of the gentleman on that home office deduction and the other tax measures that he visited about.

Our friend, the gentleman from Texas [Mr. BRADY], has been apparently waiting in the well. I will be happy to yield to him.

Mr. BRADY. I thank the gentleman from Missouri [Mr. HULSHOF] for yielding and for his leadership of our Republican freshmen class; and I appreciate the gentleman from Montana [Mr. HILL] talking about tax relief and how it is so needed for our family farms and independent businesses, who, I think it is genuinely agreed, bear the brunt of taxes and regulation in this country but are, in fact, the backbone of them.

In Texas we have a very proud entrepreneurial spirit, and we also have a very proud spirit of agriculture production and processing. We believe that for our State and for job creation for our families, that we have an opportunity this week of making two major improvements that will leave more money in the pocketbooks of our families and our communities.

I was thinking that I was 14 years old the last time we balanced the Federal budget in America. I am not that old today necessarily, but I do not want to wait until I am 114 years old or my grandkids are 14 years old before we see a balanced budget again. Like many of us, I would love to see it balanced right now. I would like to see double the tax cuts and double the spending cuts. But, in fact, we are making real improvement over where we are today.

My goal is to produce a balanced budget for America that is a true balanced budget, which does not borrow from the Social Security trust fund, does not take from highway trust funds or aviation trust funds or the military retirement trust fund, but stands on its own as a balanced budget just like our businesses or our families have to do.

In this country we have been, unfortunately, running deficits for decades. And today, if you talk about balancing the budget without using any of those funds, people look at you like you are crazy. It just seems to be too far distant a vision.

This 5-year balanced budget agreement gets us to the first step, gets us within sight of a true balanced budget. And from there we have the opportunity to balance our budget, as our businesses and our families do, to look our constituents in the eye and let them know that we are living within our means and we are not taking from our retirement programs to do so.

And if we balance the budget, we have an opportunity for real savings for people. The average American family, as I understand it, if we balance the budget and continue to balance the budget, will realize a savings of about $1,200 a year off their mortgage. Just about $100 a month less, then, they will be paying in their mortgage. Their auto loan will be about $180 a year less, and their student loan that they are paying off, $216 a year less. So just by living within our fiscal means and bringing about a balanced Federal budget, we have a chance of giving people tax relief.

When we add that onto tax relief from this bill that we are voting tomorrow, we have the opportunity to give families the $500 tax credit that they desperately need. We do need to eliminate the death tax because it is truly the most un-American tax we have today.

It is remarkable that, in a country built upon our heritage, hard work, entrepreneurship, that those families and businesses who risk the most, who work the hardest of any group, whether they are wealthy or poor, who put together a nest egg for their family so that they can pass it down to the next generation, that they would be prevented from doing so by our American tax laws. Whether it is independent business competing in the marketplace over decades to build that nest egg, or a family farm as stewards of the land for centuries to build that nest egg, we ought to be encouraging that type of behavior, not punishing it.

So while this tax bill is a good start on the inheritance tax and capital gains, we all, I believe, know that this is the first step and that we are going to continue to work to eliminate the death tax, to try to encourage more jobs and more investment, and that is going to produce results for us.

Today it also seems incredible that in Missouri, in South Dakota, Kansas and Texas, across this country, that most of us, our tax burden is such in America that in a two-parent family we have one parent working full time just to put food on the table and pay the electric bill, and we have another parent working full time just to pay their taxes. It is a process that, if we allow it to go unchecked, will damage and destroy this country.

Finally, too, we have an opportunity in this tax relief to also preserve Medicare, which, as my mom grows older, as your mom grows older, as our population ages, we do not have a choice anymore about preserving Medicare and making those changes. We have to do that or it will go bankrupt.

We have an opportunity, through the Republican proposal, to give our seniors choice, the same type of health care supermarket that Members of Congress, the President, that our Federal employees and their retirees receive, the same type of flexibility and an opportunity to root out the fraud and abuse that is running the cost of our health care up. We have an opportunity this week through these tax cuts and through our continued efforts on balancing the budget to make a real difference in this country.

I, for one, am committed to it. And I know, Representative HULSHOF, that in your leadership in the freshmen class you have been constantly pushing on deeper cuts. More spending and tax cuts move us quicker to a balanced

budget and make all our efforts directed that way, and I am hopeful in the end that we will prevail.

Mr. HULSHOF. Mr. Speaker, reclaiming my time, I thank the gentleman from Texas [Mr. BRADY], and especially for his remarks and his work here in this body.

As we were awaiting this special order, I know there were at least half a dozen colleagues on the other side of the aisle who, again, were trying to turn this whole debate into class warfare. The facts are simple.

Mark Twain, his birth place is Hannibal, MO, which is in my district, I think Mark Twain once said that "There are lies. There are damn lies. And then there are statistics."

Rather than just give some vague percentages with bar charts, what I have got here, Mr. Speaker, is not on a percentage but the actual amount of money, of tax relief that is going back to certain income classes.

As my colleagues can see, if we will consider for those under $20,000 up to $75,000, clearly almost $90 billion in tax relief; 76 percent of this tax relief package is going to those who make less than $75,000 of annual income.

In fact, if you want to take a look at the amount of relief going to those under $20,000, over $5.5 billion. And those at the upper end of over $200,000 adjusted gross income get $1.4 billion. Clearly, we are trying to focus and target the relief to those on the lower end of the scale.

Now our friends on the other side talk about how it is that we are helping the wealthy. Well, it happens that part of this package is a capital gains relief targeted specifically to lower-income people. For instance, those that are in the 15-percent income tax bracket will see capital gains cut down to 10 percent.

This will help 5 million Americans. Two million Americans are senior citizens, like Don and Carnetta in my district. Don worked for 30 years for Wal-Mart and accumulated stock over the 30 years he worked for Wal-Mart; and he cannot afford to pay right now, under current law, the tax hit he is going to get if he sold those capital assets. We are giving him and his wife some relief, and they are not wealthy by any stretch of the imagination.

We have a $500-per-child tax credit. Heritage Foundation ran the numbers on this, and it happens that in the Ninth District of Missouri alone there are 89,493 children whose parents are going to benefit with this phased-in $500-per-child tax credit, nearly 90,000 kids whose parents are going to get to keep more of their money. That is almost $40 million that is going to stay in the Ninth District, that is going to stay in the pockets of those constituent parents that are trying to do best for their kids.

How is that, I ask anybody, how is that, by allowing that relief to go to those whose incomes are under $75,000, how is that a tax break for the wealthy? I submit to my colleagues it is not.

I am happy to yield to the gentleman from South Dakota [Mr. THUNE].

Mr. THUNE. Mr. Speaker, I want to thank the gentleman from Missouri, [Mr. HULSHOF] and my friend from Texas, [Mr. BRADY] as well, who has ties in South Dakota, I might add. So even though he has moved out of our fair State, we still accept him as part of our South Dakota family, so to speak.

But I would like to pick up on what he was just talking about. We had a former President who once said, "Facts are stubborn things." I think sometimes when we have these discussions about this particular subject, balancing the budget and tax relief for American families and individuals and businesses, we lose sight of the facts.

But if we look very simply at what some of those facts are, fact No. 1, it has been mentioned earlier: 76 percent of the tax relief in this agreement goes to people who are making less than $75,000. In fact, $254 billion over a 10-year period goes to bring relief to families in this country who have been overtaxed.

A second point I would make is, and I think this is one that gets lost sometimes, too, and that is, in order to have tax relief, you have to be paying taxes. Now we have we had people on the other side who have suggested that somehow this is tilted toward people on wealthy end of the spectrum. But the fact of the matter is, you cannot have tax relief unless you are paying taxes.

Now there are those who would suggest that, under our particular proposal, the per-child tax credit is not added on as an additional payment to the earned income tax credit that people are already receiving. Eighty percent of the earned-income tax credit is a payment, it is not a credit.

□ 2045

I think if we are going to say that you are going to get the $500 per child tax credit, it is important to note that you have to have income in order to have credit, to offset that income, to get the credit. It would be like if my 10-year-old daughter, if I told her there was going to be a $500 per child tax credit for people with red hair, and because she has red hair, she would be eminently qualified for that. But the fact of the matter is she does not pay taxes, so you cannot get a tax credit until you pay taxes. That is a fundamental misnomer that is being spread around here, and I think it is something that we all need to set straight.

The other thing I would say, this is a historic day, and I think we ought to be just bubbling with enthusiasm about what is happening around this place. This is the first time in 30 years that we have had a balanced Federal budget. This is the first time in 16 years that we are lowering taxes on American families and individuals. I think that as we go toward Independence Day, this ought to be a joyous occasion for the people in this country because for the first time in a long time, we are going to be able to declare independence for them from the shackles of big government.

I think it is very important that we make clear as well not only what we are for, but why we are for it. I think when we start talking about why we are for what we are for, it comes down to the fundamental issue that everything we are doing here, balancing the budget, lowering taxes, saving Medicare for the next generation, comes back to the basic premise that we want to see less power in Washington, D.C., and more power back on Main Streets in South Dakota, in Missouri and in Texas, and in the living rooms of the families of this country, so they have the freedom to make the decisions about their futures. I happen to believe that if they have the freedom to make those decisions that they will exercise those freedoms responsibly.

We have a lot of people in this country who would like to teach that you can have freedom from responsibility, but the fact of the matter is in order to have freedom, you have to have responsibility. We have a lot of hardworking men and women in America today who deserve the freedom to be able to exercise responsibly that freedom in a way that allows them to keep more of what they earn, in a way that puts more power and control, more decision making in their hands and less in Washington, DC, and that is why we are for what we are for.

That is the point I think that we need to make to the American people and why I hope that as this Independence Day rolls around, they have an opportunity to declare independence in this country and to hopefully enjoy the benefits of tax relief that is coming their way.

We have talked a lot as well about entitlement programs. I think it is important in this discussion, too, that we talk about what is being done to preserve and protect Medicare for another 10 years. How do we do that? Again by taking the power out of the government bureaucracy in Washington and putting it back in the hands of our senior citizens, by enabling them to choose medical savings accounts, by enabling them to get into provider sponsored organizations, managed care, not just health maintenance organizations but provider sponsored organizations, by giving more options, more choices.

That is what this is all about. It is about putting more power and more freedom in the hands of individuals in

this country. I think that as we conclude this debate tomorrow, today we passed the entitlement reform side of it, the spending side, tomorrow we will pass the tax part of it, I think it is incredible what we are achieving here. I came here to do most of these very things, as did the gentleman from Missouri, as did the gentleman from Texas [Mr. BRADY], to accomplish things that we think are meaningful to the future of this country: Balancing the Federal budget, lowering taxes, saving Medicare, and putting more power back in the hands of the people in this country and less power in Washington, DC.

We have done all this. These are things that are incorporated. These are the principles upon which all the things that we voted on today and we will vote tomorrow, those are the principles on which we stand. I think it is important that the American people know not only what we are for, lower taxes, a balanced budget, but why we are for it, and that is to give them more freedom, more power, more control, more decision-making.

This is an incredibly historic occasion for us in this country, and I would hope that it is not lost on the American public what is happening in this institution for the first time in 30 years. It is amazing. It is good for my kids and for your future kids and grandkids and for the people in America who have held the promise for a long time that we would come down here and do something that is meaningful, about protecting their future and making sure that they have access and are not deprived of the American dream. As we continue to pursue this, this is the first step, but I hope it is the first step on a long journey to putting more power back in the hands of individuals and not in Washington, DC.

Mr. HULSHOF. I think the gentleman has enunciated very eloquently what it is we stand for and why it is that we sought office and what we are doing to accomplish the goals that many of us stood for and campaigned on. It is especially poignant, I think, when we look just a couple of years ago when we had a President who, with the liberals in control of this body, passed a tax hike.

There was a discussion about ever-expanding government bureaucracy, universal health care, and then suddenly the stark contrast, that we are returning power to the people, getting it out of this city and giving it back to the Main Streets and the local chambers of commerce and civic clubs all across this great land. I agree with the gentleman that this Fourth of July will certainly be a day to celebrate.

Mr. BRADY. If the gentleman will yield, as I was listening to the gentleman from South Dakota [Mr. THUNE], I was reminded of a quote attributed to your former famous constituent Mark Twain, who said "Nothing makes liars out of more honest citizens than the income tax." It is not simply because it is so complicated and people do not think it is fair. It is because when they are struggling so hard to make ends meet in South Dakota and make ends meet in Missouri, they do not believe the Federal Government is doing the same. Every dollar that we can cut taxes is a dollar we have not sent to Washington, that we are leaving back in our States and our communities. I am convinced most Americans are not seeking a safety net under them. They are objecting to the tax net that we have thrown over them. If we will provide them the relief that we have scheduled for this week, that they so desperately need, I am convinced we are going to get support across this country for deeper tax cuts and less spending and more local control, as the gentlemen have both stated so eloquently.

Mr. HULSHOF. I especially appreciate the comment the gentleman made earlier because again waiting for the special order to begin, barrage after barrage from our friends on the other side, particularly our Democratic colleague from Arkansas who talked about the earned income tax credit and how it was that the family that he mentioned, he had a nice portrait, a beautiful portrait of this family that was struggling, but yet who bore no tax liability because the earned income tax credit eliminated any tax liability. In other words, that family in Arkansas did not have to pay taxes to the Federal Government. And because we do have limited resources, this targeted tax relief is going to those people that have tax burdens. I think the gentleman pointed that out a few moments ago.

Mr. THUNE. If the gentleman will yield on that, I think it is incredibly important to make the distinction here that we are trying to bring tax relief to people who pay taxes and not increase payments for people who do not. That is a fundamental distinction that needs to be made.

Mr. HULSHOF. Our colleague from Arkansas further pointed out that this family in the portrait that he had, that they paid the payroll taxes and certainly paid taxes toward Medicare and somehow that that ennobled the family to receive these income tax credits. But the fact is that paying Medicare taxes and paying the payroll taxes entitles that family to reap the benefits of Medicare down the road or to reap the benefits of Social Security. So the fact that that family is paying those payroll taxes and Medicare taxes, those benefits will come and inure to that family at the appropriate time. But because we have limited resources and tax relief, we are trying to give tax relief to those Americans who most need it.

Mr. THUNE. If the gentleman will yield further on that, it is interesting again to see the irony here in that we are talking about not counting Social Security and Medicare payments toward a future benefit and yet when it comes to computing income to declare someone as being wealthy, we add retirement benefits, capital gains and imputed income from rental payments and everything else. There are a lot of things being done here with the numbers which I think we need to continue to put the facts out, and if we do, the people will agree with us.

Mr. HULSHOF. Mr. Speaker, I recognize we are down to our final minute or so. Let me just sum up that what we believe and especially in this vote tomorrow and the debate that we have on this tax relief package, letting Americans keep more of their money sounds like common sense to most of us, especially those of us who are newly elected Members. That seems to be a pretty radical idea here in Washington, DC. People in Washington should never ever forget that tax money belongs to the taxpayers and not to the government. It would be a big change from how things used to operate, but that change which comes tomorrow is long overdue. It is true and we have already heard it. We have gone back to the old divisive style of debate, this class warfare politics. I would hope and pray that we are beyond that. Instead of dividing Americans and pitting groups against each other, we should be working together to face our national challenges. We have a moral responsibility to ourselves and to our children not to tolerate such acts. We have a moral imperative to make it possible for everyone to climb the ladder of success.

Mr. Speaker, let me say to the parents who are struggling to make ends meet, the parents that are burning the candle at both ends to put food on the table and keep a roof overhead, the parents that are sacrificing their own needs and giving everything they have got to make sure that their children have every opportunity for a brighter future, we hear you. For those who believe that we spend too much in Washington, we agree. For those who believe that we tax too much in Washington, we agree. For those who believe we must balance the budget, cut wasteful Washington spending and provide permanent, real, meaningful tax relief, we agree. And for those that demand that we here in Washington do better than we have done in the past, we agree. If we can pass this tax package, Mr. Speaker, the next week and the Fourth of July will truly be a day that we can all celebrate our independence.

TRIBUTE TO SECRETARY OF VETERANS AFFAIRS JESSE BROWN

The SPEAKER pro tempore [Mr. TIAHRT]. Under the Speaker's announced policy of January 7, 1997, the gentlewoman from Florida [Ms. BROWN]

is recognized for 60 minutes as the designee of the minority leader.

Ms. BROWN of Florida. Mr. Speaker, I rise today to pay a special tribute to someone that I feel is one of the brightest stars in President Clinton's administration, Secretary Jesse Brown. But before I begin, I would like to say a word about a woman who is in Washington today, a member of the Russian Duma, Mrs. Svetlana Go Voyz Da Va is the deputy chief of the Economic Policy Committee in the Russian Congress. During our visit this afternoon, we have agreed to set up an international conference where elected women, officials from Russia, France, England, Africa and the United States can meet to discuss solutions and strategies for the problems that face women across the world. These problems include education, labor, health care and poverty. We have pledged our cooperation and will continue to work together to help women and children throughout the world. As she said earlier today, "Why not?"

Mr. Speaker, it is my pleasure to rise today to recognize the great achievement of Secretary of Veterans Affairs Jesse Brown. Secretary Brown will leave his post on July 1st of this year after serving a distinguished 4 years with the administration. Secretary Jesse Brown, a combat-disabled Vietnam veteran, guided VA through a significant transition period where health care delivery systems evolved to reflect marketplace changes, where severe budgetary challenges presented themselves in the wake of deficit reduction, where growing demands were placed upon existing veterans' services, and where emerging illnesses from Gulf War veterans challenged the Nation's best physicians and scientists. Secretary Brown embraced all of these challenges with vigor and directed the Department of Veterans Affairs to be more responsive in the areas of claims processing, more sensible in its benefits for Agent Orange veterans, more proactive in developing programs for the significantly growing number of women veterans, and more compassionate with the treatment and compensation of Gulf War veterans suffering from illnesses. I commend Secretary Brown for his outstanding work in these areas, and I also call for Members of this House to observe his example and not abandon veterans in our budget, veterans who have fought so hard for this country.

□ 2100

The United States have the most comprehensive system of assistance for veterans in any Nation in the world.

Jesse Brown begins serving as Secretary of Veterans Affairs on January 22, 1993. As Secretary he directed the system that included hospitals, clinics, benefit programs and national cemeteries. In his vision statement Secretary Brown said, "Our vision is as simple and is noble. It is to provide our veterans with quality health care, timely benefits and burial with dignity."

I believe this simple statement says a lot about Secretary Brown. It shows how he has the leadership to put our Nation's veterans at the top of the priority list in terms of receiving benefits and service they deserve for fighting to protect this Nation's liberty and freedom.

I was most impressed with his motto, putting veterans first. Let me repeat that. The motto: Putting veterans first. That is exactly what he did as Secretary, and it is so important that we continue to do so.

I yield to my colleague the distinguished gentlewoman from Florida, CARRIE MEEK.

Mrs. MEEK of Florida. Thank you very much to my colleague, the gentlewoman from Jacksonville, FL Florida's Third Congressional District, who is held in outstanding esteem by everyone in the State of Florida and beyond. I want to thank her for this special order recognizing the contributions of Secretary Jesse Brown.

Mr. Speaker, I rise today not only to thank CORRINE BROWN for bringing this to the country, the accomplishments of Secretary Brown; he has been one of our Nation's most faithful and valiant veterans, and we want to thank this man because he has successfully led the Federal Government's second largest department for the past 4 years.

You do not get much glory out of Washington, hardly any praise. But this man is praiseworthy, and we are so happy to take the time to give him the praise that he deserves.

Three words, my dear friend, CORRINE BROWN, and to the Speaker, three words personify Jesse Brown: dedicated, heroic, accomplished.

The Department of Veterans Affairs was created by Executive order in 1930 as the Veterans Administration. At that time there were 54 hospitals, 4.7 million veterans and 31,600 employees. The Department that Jesse Brown, Secretary Brown, inherited in 1993 when he was sworn in by President Clinton as Secretary of VA, well, he was one, 1 of 266,000 employees responsible for a nationwide system of health care services, benefits and national cemeteries for America's 26.5 million veterans.

Dedicated, heroic, accomplished, Mr. Speaker.

Mr. Brown has successfully managed this huge department with great care and concern for the welfare of our Nation's veterans and has successfully led the charge to improve its operations and services.

Jesse Brown has been accomplished, Mr. Speaker. That is why the gentlewoman from Florida, CORRINE BROWN, called this special order, to raise the consciousness of this Nation about the accomplishments of this great man.

Jesse Brown's accomplishments at the VA and his outstanding service to veterans, they are not surprising given his distinguished career. Mr. Brown was a honors graduate of Chicago City College and also attended Roosevelt University in Chicago and Catholic University. Jesse Brown served in the Marine Corps in 1963 and was wounded in combat in Vietnam in 1965.

Heroic, Mr. Speaker. Secretary Jesse Brown is a hero.

Mr. Speaker, before his appointment as Secretary of VA, of the Veterans Administration, he spent his professional career as executive director with the Disabled American Veterans where he directed the DAV's Washington office. He has led legislative, employment and volunteer programs as well as advocacy efforts on behalf of disabled veterans and their families.

Mr. Brown has been criticized sometimes for his zealous advocacy on behalf of our Nation's veterans and their families. That is why he is a cut above a lot of bureaucrats who survive here in Washington. However, it was his faithful, consistent and abiding commitment to these national heroes that resulted in the success he has realized as head of VA.

Under Secretary Brown's leadership the VA has expanded benefits for veterans who were prisoners of war or were exposed to Agent Orange, radiation or mustard gas. He has expanded treatment services to those suffering from posttraumatic stress disorder. Secretary Brown successfully worked for the enactment of laws authorizing the VA to pay compensation for Persian Gulf war veterans' undiagnosed illnesses and to provide them with priority health care, the illnesses they may have incurred in the gulf.

I have seen Secretary Brown in action before the Committee on Appropriations. He has taken no shelter. He has pushed hard for veterans. Additionally, he has formed the task force whose recommended changes have led to reduction in the backlog of veterans' benefits through improved technology, redesigned work processes and more staff training.

The gentlewoman from Florida [Ms. BROWN], of the Third Congressional District of Florida, we can attest to the fact that many of our veterans had to wait for years before they got their claims adjusted. Secretary Brown cut that out. He made this system more efficient for the veterans of this country.

Mr. Brown's campaign of putting veterans first has formed the basis of his work to maintain the VA system as an independent provider, to broaden veterans' access to the system and to offer a continuum of comprehensive care. The Secretary's program coverage has spared numerous categories of veterans' concerns ranging from the

homeless to women veterans' issues to sensitivity training for VA employees. He continues to press for changes to make the VA medical system competitive in a changing health care environment.

Mr. Speaker, I say Secretary Brown is dedicated. The Department of Veterans Affairs will lose a stellar leader when Jesse Brown leaves his position as Secretary this year. I ask my colleagues to join me in commending him for his success and thanking him for his outstanding service to our Nation through his dedicated service to our veterans.

Secretary Jesse Brown, I salute you as a leader of men and women who are willing to give their lives for our beloved country. God bless America, thank God for Jesse Brown.

Ms. BROWN of Florida. I thank the gentlewoman.

I yield to the gentleman from Illinois [Mr. DAVIS].

Mr. DAVIS of Illinois. First of all, I just want to commend and congratulate the distinguished gentlewoman from Florida [Ms. BROWN] for her sensitivity and enlightenment in organizing and bringing together this group who will give tribute to Jesse Brown. And so, Mr. Speaker, I rise today to recognize another great leader with roots in the Chicago community, another individual who lived in the congressional district which I am fortunate to represent. Rarely does an individual come along who possess qualities which tend to elude the multitudes.

This individual is driven. He must be if he is to set an example for those around him. This individual is intelligent, not only from the study of books or formal training, but from applying the lessons of life, lessons learned at the nadir of life's inevitable pitfalls and also those which come while at the pinnacles of its glorious triumphs.

This individual is selfless. If he was not, he might not be able to administer with wisdom and compassion the great resources with which he has been entrusted. This individual is a leader. But also a good follower, committed to service.

Mr. Speaker, I do not have to tell you that Jesse Brown is one such individual. He has maintained an exemplary record of service not only to the Nation's veteran community but to his family, numerous professional organizations and indeed to his country. Jesse's tireless efforts are certainly felt throughout my congressional district and all over America each day, a large veteran community with 3 major VA hospitals: Lakeside, Hines and West Side, all of which lie within the boundaries of my district in Chicago and the western suburbs.

As Secretary of Veterans Affairs, Jesse Brown worked diligently to insure that our Nation's veterans received the quality health care and other benefits which they are deserving. In fact, throughout his entire professional career Jesse Brown has worked to ensure that America lives up to the promises made to our veterans.

Oftentimes I did not have to ask Jesse Brown for a thing. I did not have to ask because he would not let me.

Jesse is proactive and meets issues head on. I admire his bold determination to guarantee that those who have served this country beyond her borders will not suffer and, in fact, will receive quality services and benefits.

I must tell you that Jesse's mother is a resident of Chicago, and I know that she beams with pride at the very mention of her son's name. I know veterans in my district who have nothing but positive things to say about Jesse and directly attribute their success to his lifelong efforts, and I can tell you that I know that all of us are perhaps stronger and better because we have had the benefit.

And so, Jesse, I know that we could not persuade you to stay. I know that if we did, we would be stealing your gift from those whom you will be moving on to enlighten, and if you taught us anything in this country, it is that your company is too precious to keep all to ourselves.

And so I say thank you on behalf of my constituents and veterans all over not only America, but all over the world. And I know that Jesse's heart is saddened when he thinks about the budget, our spending plan and tax cuts. We are passing laws which has taken away health care for veterans and doing nothing for military retirees. So maybe, Jesse, you are leaving at the right time because I know that it would be very difficult to do justice to veterans with all of these cuts and tax breaks for the rich as we balance the budget on the backs of the poor.

And so, Jesse, as you leave, hopefully the same people who voted for the flag will now learn to vote for veterans and their families. We thank you for being a great servant to the American people.

Ms. BROWN of Florida. I yield now to the gentleman from California [Mr. FILNER] from the committee.

Mr. FILNER. I thank the gentlewoman from Florida for having this special order for a very special person. That picture looks at us, and we know his warmth and his friendship and his charisma and his concern for so many people, and it just beams out from that picture, and we thank you for that.

As you said, I serve on the Committee on Veterans' Affairs, and although I greatly enjoy the challenges and responsibilities and even the frustrations involved with being a Member of Congress, my service on that committee is a source of particular satisfaction to me. Veterans are special and unique members of our American family, and it has been a great honor to work on their behalf.

Additionally, my service on the Committee on Veterans' Affairs has given me the opportunity to meet and work with many remarkable people, and the Secretary of Veterans Affairs, the Honorable Jesse Brown, is one of the most extraordinary.

Adlai Stevenson once said that patriotism is not a short and frenzied outburst of emotion but the tranquil and steady dedication of a lifetime. By this or any other definition Jesse Brown has lived the life of a patriot.

As a young man Jesse enlisted in the Marine Corps and was among the first American forces to be sent to Vietnam. In 1965 he was ambushed in a rice paddy outside Da Nang.

□ 2115

In his letter of resignation to the President, Jesse described this life-altering event. As he said in 1965, in one short moment, my life was changed by a shot I never heard.

Subsequently, as we have heard already, Jesse went to work for the Disabled American Veterans and began his career as a passionate advocate for veterans. As he told the President over the succeeding 32 years, I have been driven by an obsession to make sure that veterans, whose lives have also been changed, are not disadvantaged by having honorably served in the military. That was Jesse Brown.

As Secretary, he demonstrated the same courage he showed as a marine in Vietnam. He spoke out on behalf of fellow veterans with a directness and honesty that was criticized by some, but deeply appreciated by every veteran in this Nation. He never faltered in his personal commitment, and never lost sight of his duty as Secretary to ensure our country never faltered in its commitment to our veterans.

I was honored to have Secretary Brown visit my district on several occasions. He spoke with veterans, he spoke to veterans, and they recognized him as one of their own. These veterans left those meetings more optimistic because they had met Jesse Brown.

I took him to high schools where he met our young people. They saw a man, a black man, a black man with a paralyzed arm, who sat in the Cabinet of the President of the United States, and I think those youngsters will have a better chance to succeed because they met Jesse Brown.

I took him to churches, and he could preach. He could preach. He was a different man in the church, and I know that my constituents who heard him were spiritually enriched because they met Jesse Brown.

He was an extraordinary man. I am proud to call him my friend, and like all of my colleagues tonight, we will miss him as Secretary of Veterans Affairs. I thank the gentlewoman for being so involved in this.

Ms. BROWN of Florida. Mr. Speaker, I thank the gentleman. I would now like to yield time to Delegate DONNA CHRISTIAN-GREEN, who I had the opportunity to visit her veterans, and also note the work that Secretary Brown has done for the veterans from the Virgin Islands.

Ms. CHRISTIAN-GREEN. Mr. Speaker, I thank my esteemed colleague, the gentlewoman from Florida [Ms. BROWN], who, as she said, traveled with me to the Virgin Islands to speak with our veterans, for organizing this Special Order and tribute to our outgoing Secretary of Veterans Affairs, the Honorable Jesse Brown and for affording me this time to offer remarks.

Mr. Speaker, I rise today to pay tribute to Secretary Brown on behalf of the veterans of the U.S. Virgin Islands. Though relatively small in absolute numbers, these brave men and women have served our country in per capita numbers unequaled by many States.

I am proud to say that I too come from a family of veterans who served, beginning with the First World War and, who along with the more than 26 million veterans nationwide, have benefited greatly because of the efforts and the advocacy of Secretary Jesse Brown.

While it would have been easy to overlook the veterans of our small, but beautiful territory, Secretary Brown, as always, putting each and every veteran first, and recognizing the uniqueness of our situation, traveled to the Virgin Islands to meet with our veterans and their families and to listen to their concerns.

Because of his caring and strong leadership, that visit marked a turning point in improved services for the veterans of St. Thomas, St. Croix, and St. John.

Mr. Speaker, I am honored to have this opportunity to add my voice to the many others in recognition and gratitude for the outstanding years of commitment and service to veterans, their families, and the Nation.

The legislature of the Virgin Islands and Senator Alicia Chucky Hansen, chair of its Committee on Veterans' Affairs, add their thanks and their congratulations.

So, Mr. Speaker, we reluctantly let him go, but we do so knowing that he will be leaving a better Veterans' Administration, and that he has laid the groundwork for ever improving services to our veterans. Mr. Speaker, we thank Secretary Jesse Brown and wish him well and God's blessings in all of his future endeavors.

I thank the gentlewoman for affording me this time.

Ms. BROWN of Florida. Now I would like to yield time to Congressman SANFORD BISHOP, who is also on the Committee on Veterans' Affairs.

Mr. BISHOP. Mr. Speaker, I thank the gentlewoman for yielding, and for giving me the opportunity to pay tribute to a friend and to a real friend of America's veterans. It is an honor to join my colleagues, especially the gentlewoman from Florida [Ms. BROWN], in honoring the outgoing Department of Veterans Affairs Secretary, Jesse Brown. He is a true American hero who has served his country with honor and with distinction. Moreover, he has been a real asset to the Clinton administration and his bold leadership in behalf of our Nation's veterans will definitely be missed.

Jesse Brown, a native of America's Midwest; a proud marine, a combat veteran, who served bravely in Vietnam and a disabled veteran who has worked for the past three decades to help make sure his fellow veterans receive the full benefits they have earned through their service and their sacrifice.

When he was named to the President's Cabinet as Secretary of Veterans Affairs in 1993, veterans everywhere knew that this would be an outstanding appointment, one that would provide strong, effective leadership for the core interests of veterans at the highest level of our national government. And it certainly has been.

During his tenure, Secretary Brown has been instrumental in the enactment of a landmark VA health care eligibility reform bill which promises to open up VA health care services to many more veterans and pave the way for improvements throughout the whole VA health care system.

Benefits for veterans suffering from exposure to agent orange in Vietnam and to the Persian Gulf illness, full payment of veterans' cost of living adjustments, expanded benefits for surviving spouses of veterans, greater employment protection for Americans who are called up for military service: These are just a few of the initiatives he has helped get enacted into law.

As a member of the House Committee on Veterans' Affairs, I have the privilege of working closely with him, and on these and other legislative goals, he proved to be a real bulldog, the tenacity that you would not normally see in a Cabinet member working in behalf of America's constituency.

The partnership between the Secretary and our committee has been exceptionally productive, and throughout our country's history, brave Americans have answered America's call, a great personal sacrifice. Jesse Brown sacrificed much. He served greatly, and he will be greatly missed in the office of veterans affairs.

Jesse Brown brings to my mind many, many very, very pleasant memories. He visited the Second Congressional District of Georgia on several occasions, and he touched the hearts of many, many veterans. It was heartwarming and it often brought tears to one's eyes to see him just as at ease with a young active duty military person, or a gold star wife, and he could remember her, having met her 10 or 15 years ago at a veterans service organization convention.

Jesse Brown is a very, very special individual. He genuinely loves the work that he has done for veterans. Dr. Benjamin Elijah Mays said that you make your living by what you get, but you make your life by what you give. Secretary Jesse Brown has truly made a life, for he has given so much and he has, indeed, made a life not just for himself, but for all of America's veterans and for that, we are forever grateful.

God bless Jesse Brown; God bless America.

Ms. BROWN of Florida. Mr. Speaker, I thank the gentleman.

Now I yield to the gentlewoman from Indiana [Ms. CARSON].

Ms. CARSON. Mr. Speaker, I thank the gentlewoman very much for bringing to the fore this tribute to the Honorable Jesse Brown. Truly Jesse Brown is an honorable man, and I would not want it to appear that we are doing anything tonight beyond commending Jesse Brown, even though it may sound as though we are doing something else about Jesse Brown. But I am glad that Jesse Brown has an opportunity to hear the praise and the accolades that he so richly deserves during his lifetime.

So, Mr. Speaker, and certainly to the people of the United States in general and to the veterans in particular, on July 1, an all-American public servant, the Honorable Jesse Brown will step down out of his formal role as Secretary of Veterans Affairs, a position that he has served honorably, tirelessly, courageously.

The Honorable Jesse Brown's public service as VA's Secretary is unparalleled. It is unsurpassed, it is uncompromising on behalf of this Nation's 26.5 million veterans. Mr. Brown directed the Federal Government's second largest department responsible for a nationwide system of health care services, benefit programs, and yes, indeed, cemeteries.

Mr. Brown enlisted in the Marine Corps in 1963 and was wounded during combat in 1965 while patrolling the Da Nang area of Vietnam. As a consequence, he is a member of the military order of the Purple Heart.

When he left the battlefield in Vietnam, he landed on the American battlefield for this Nation's veterans. He became a warrior for veterans in countless ways: Successfully working for the enactment of laws authorizing the VA to pay compensation for those veterans with undiagnosed illnesses and to provide them with priority health care for illnesses they possibly incurred in the gulf.

To reduce a backlog of veterans' benefit claims, the Secretary formed a

task force whose recommended changes have led to improved technology, redesigned work processes and staff training.

Mr. Brown convened the first national summit meeting on homeless veterans under his leadership, expanded services to women veterans, including counseling for sexual trauma suffered in the military, new health centers with specialized treatment capabilities, and more full time coordinators for women's care at VA medical centers. Mr. Brown ordered sensitivity training for all of the employees as part of his campaign of putting veterans first. He guided the VA's role in the administration of health care reform.

In Mr. Brown's resignation statement recently he reminded this Nation that the Veterans Affairs Department "was formed to care for those men and women who placed themselves in harm's way. They are the citizen soldiers who have borne the battle, suffered the consequences of their determination to defend the freedoms we enjoy, and stood by our allies around the world when needed."

□ 2130

He reminds us that there is still much to do, not the least of which is to continually remind this Nation that all we enjoy under the Bill of Rights the laws of the land, and bountiful fruits of the Nation are ours because more than 1 million citizens died to protect those precious freedoms, and another 1½ million citizens came home wounded and scarred for life.

We can never fully repay them for their losses, but we must never forget them nor shove them aside when freedom is abundant and unchallenged. We cannot shove them aside when, under the guise of balancing the Federal budget, we deny and neglect those who fought ferociously for freedom all over this world.

So, Mr. Jesse Brown, in honor of all of your good work, we thank you, Mr. Secretary, for your heroic public service, and we are reminded tonight that unto whom much is given, much is required. Mr. Brown has certainly given us much, as Secretary of the Veterans Affairs Department. Our gratitude is eternal. Unto whom much is given, much is required, Mr. Speaker, lest we forget the veterans that Mr. Brown, who himself is a veteran, has so capably and ably represented.

Ms. BROWN of Florida. Mr. Speaker, I yield to the gentlewoman from California [Ms. JUANITA MILLENDER-MCDONALD].

Ms. MILLENDER-MCDONALD. Mr. Speaker, I would like to first thank my esteemed colleague, the gentlewoman from Florida Ms. CORINNE BROWN, for allowing us the opportunity to come tonight to, Mr. Speaker, applaud an outstanding American, an outstanding African-American, with commendations. That person is Veterans Affairs Secretary Jesse Brown, whom we all applaud for his tireless advocacy on behalf of America's veterans.

His departure from the Clinton administration creates a loss for veterans and for all of us. It will be hard to find another champion for veterans with such outstanding capabilities, commitment, and a track record of groundbreaking accomplishments.

Brown made a difference in the quality of veterans' lives. Brown was a veteran, and that experience enabled him to provide special leadership at a critical time of Government downsizing but increasing service needs.

Jesse Brown came to the office of Secretary with very unique qualifications. Brown grew up in Chicago's South Side and was recognized even as a youngster as a natural leader. He graduated from Chicago's City College, and later joined the U.S. Marines, where he served his country during the Vietnam war.

In 1965 Brown crossed a rice paddy near Da Nang when an enemy bullet shattered his right arm. He was awarded a Purple Heart. After a year of rehabilitation at a Naval Hospital, Brown joined the Disabled American Veterans, the DAV, as a service officer in Chicago. Brown said, that job offered fire to my life; it gave me a reason for living and a noble cause. He eventually became DAV's executive director. President Clinton appointed Brown to Secretary of Veterans Affairs in 1993. To say that Jesse Brown has fought in the trenches would not adequately describe Brown's efforts on behalf of veterans.

Some have said his commitment verges on obsession, but I think he would find a compliment in that assessment. Brown has championed American veterans' causes, especially during the budget-cutting debates, by pointing out that veterans' benefits are not entitlements. They are the equivalent of inalienable rights. Brown has asserted that veterans should not be discussed in the same breath as welfare recipients. "We can't spend billions preparing people to go to war and then, when they come home, nickel and dime them to death." That was Secretary Brown.

Secretary Brown has consistently reminded those of us here in Congress of the critical role played by American veterans and the respect they deserve for their efforts on our behalf. Some of Secretary Brown's accomplishments include changes in how the VA is run, changes that will allow VA doctors to treat veterans for whatever ails them, not just conditions linked to their active duty service. Brown's reforms also include care for children of veterans who may have spina bifida linked to a parent's duty in Vietnam, and Persian Gulf war veterans whose ailments cannot be linked to any specific illness.

Brown's reforms also enabled female veterans to finally have medical clinics at most VA facilities. As a female Member of Congress, I applaud Jesse Brown's sensitivity to the needs of women veterans and the changing composition of our U.S. military.

I know that whatever Jesse Brown tackles in this next phase of his public service, the veterans of America will be better off because of his efforts. Again, I commend Jesse Brown's many accomplishments and wish him all the best. And as one veteran would say to another one, and I am sure all American veterans are saying this, God bless America, God bless Jesse Brown, for having graced our stage. Again, I thank the gentlewoman from Florida for allowing us this opportunity.

Ms. BROWN of Florida. Mr. Speaker, I yield to the gentlewoman from Texas Ms. SHEILA JACKSON-LEE.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman from Florida for, one, her advocacy on behalf of veterans, and the recognition that it is important to give flowers when they can be accepted and received.

It was interesting to hear the gentlewoman from Indiana, who made a humorous remark; no, this is not Secretary Brown's eulogy. It is a commemoration and celebration for all of the service that he has given to so many. I am certainly grateful that the gentlewoman from Florida [Ms. BROWN], in her leadership in the veterans arena, recognized that he should not go quietly into the night.

Let me for a moment do the formal statement, and very briefly acknowledge Secretary Brown as a friend. How interesting, so many of us coming from so many different places around the country, California, Illinois, where he is from, and he spoke fondly, frequently, of Chicago and Illinois, Florida and Indiana and other places who have paid him tribute, to be able to stand here and call him a friend. That is very special.

Mr. Speaker, I say that he is a friend to all veterans. There is not a one that he comes upon, whether it is the veterans still living from World War I, or that veteran with a glitter in his eye from World War II or the Korean action, whether it was the Vietnam action or the Persian Gulf and other places unknown that we fail to remember, when he comes and sees these veterans, there is a spark, an excitement of recognition that a friend has come into their eyesight.

Jesse Brown served this Nation in uniform long before he came the Secretary of Veterans Affairs. His experience in and after military service provided much-needed insight and sensitivity into the plight of our Nation's veterans. Secretary Brown's slogan "Putting Veterans First" sounds almost like a campaign for the next election, "Putting the people first," but

Secretary Brown did not use this as a campaign slogan. It was a heartfelt commitment, putting veterans first, and putting that slogan into every action at every level of the Department of Veterans Affairs.

Under Secretary Brown's leadership the Department of Veterans Affairs had expanded benefits for veterans who were prisoners of war or exposed to Agent Orange, radiation or mustard gas, and has expanded treatment services to those suffering from post-traumatic stress disorder. Mr. Brown also directed the Veterans Affairs' aggressive research initiative to determine the causes of illnesses of Persian Gulf veterans.

Mr. Speaker, there is something special, albeit we have a great love for all of our veterans, but the special kindness that Secretary Brown had for our Vietnam veterans, the fondness and the relationship that he was able to show to those who still had relatives, loved ones, husbands, fathers, brothers, who were MIAs, he could empathize and sympathize realistically.

I remember as a member of the City Council in Houston how special to be part of those veterans who would come and celebrate Veterans Day or Memorial Day, and continue to raise up the POW and MIA flag. Secretary Brown knew this in his heart, that he must continue the fight dealing with veterans and dealing with those who were MIAs and who were POWs.

Secretary Brown convened the first National Summit on Homeless Veterans programs and medical centers, and I know that the standdown that we had in Houston, and that has occurred across the Nation, brought homeless veterans from around our community who felt loved and respected, because volunteers came every spring to cater to them and to allow them to get over some of the illnesses and addictions that many faced. Secretary Brown always acknowledged that these were veterans, too.

He expanded services to women veterans to include counseling for sexual trauma suffered in the military, new health centers with specialized treatment capabilities, and more full-time coordinators for women's care at Veterans Affairs medical centers.

My own Shirley Smith in Houston worked so very hard to have the women's section of the veterans hospital grow and thrive and make women feel comfortable. When I visited on many occasions, whether it was a holiday occasion and when we had Valentine's Day with the veterans, it was special to see women veterans, a true product of the work of Secretary Brown, feeling comfortable and being treated well with special services in our veterans hospitals.

I would like to salute Secretary Brown for his commitment to America's sick, homeless, and disabled veterans. As Secretary of Veterans Affairs, Secretary Brown was the best and brightest from his generation to take on the job of preparing the Department of Veterans Affairs for the next century.

Secretary Brown was an effective voice in the administration and on the Hill for this Nation's veterans. His leadership in the administration to promote and defend the interests of veterans in the making of policy that our Nation's government promulgated is worth noting tonight.

I said to the gentlewoman from Florida [Ms. BROWN], interestingly enough they both have the same last name, and it is appropriate to note that, no, they are not related, but apparently the Browns stand strong in America because they come, apparently, from the same good stock. That is the stock of serving this country well.

I have given my official compliments to Secretary Brown, and if the gentlewoman would allow, let me just say some things straight from the heart. First of all, the gentleman from California [Mr. FILNER] said something very special. The gentlewoman has his picture there on the floor, how wonderful it is that tonight we pay tribute to an African-American, an American war hero. How important it is for all of this Nation to recognize, as the flag is reflected behind the gentlewoman, that we are best when all of us can shine, Hispanics and Anglos and Asians and African-Americans. In this time when there has been a call for apologies for slavery, there has been a call for a dialog, it is important that this gentleman led our veterans.

I hope those who may be thinking of negative comments, that we do not need to live together in harmony, can look tonight and see that a man who stands tall by the name of Jesse Brown did not lead the Veterans Department as an African-American, but he led the Veterans Department as an American.

I think the many veterans and those who worked in our Veterans Affairs Department and those who worked in our veterans hospitals who happen to be people of color, and let me be honest with you, I heard from many who felt that in these hospitals sometimes, as employees, they were not treated the best; and I am trying to work with those in Houston who have concerns, but they felt that Secretary Brown cared about them and their treatment as employees, no matter what their racial background was.

I remember the sad times. The gentlewoman from Florida [Ms. BROWN] was right, we were here fighting to avoid the shutdown across this Nation in the 104th Congress. We wanted to avoid putting those people out on the street who worked hard every day in the veterans hospitals.

□ 2145

When I was able to go back to my veterans hospital and see those people working without pay to keep the veterans there safe, it was because they believed in Secretary Jesse Brown, that he would not let them down. And he instructed his veterans hospitals to find any way possible to coordinate with local banks to reach out to avoid the employee's credit going bad or their being out of apartments or housing. He truly cared whether this government was shut down by my Republican colleagues.

So I am saddened somewhat that he is going to leave us from government, but I want to make a commitment to Jesse Brown, because tomorrow we will be putting forth a tax bill. And I heard just a few minutes ago some of my Republican colleagues talking about people who do not pay taxes, people making 15,000 and 20,000 and 25,000.

I know, when I have had a chance to talk to Secretary Brown, he said, you know, some of those people are veterans. Some of those people who have to get food stamps and work are veterans. So let me set the record straight, because I will be voting no on the Republican plan and it will be somewhat of a tribute to Secretary Jesse Brown.

That is because the EITC, the earned income tax credit, is important and because people making $25,000 a year, former members of the military, now veterans, are paying taxes.

Ms. BROWN of Florida. Mr. Speaker, would the gentlewoman believe that one-third of the homeless people are veterans, veterans who have slipped through the cracks? We owe service to these people who have paid their dues up front. When I look at the budget that is put forth tomorrow, I look with disgust, because we are sacrificing the veterans who have paid their dues. Perhaps it is a good time for Secretary Brown to leave, although we will miss him. He is and I am sure he will continue to be a strong voice for the veterans in this country.

Ms. JACKSON LEE of Texas. Mr. Speaker, as I come to a close, the gentlewoman is so very right. I know that you know this because I have heard you speak so eloquently on the floor about your veterans hospitals and trying to work so hard for the veterans in your area.

We thank the administration for giving Jesse Brown the latitude and leeway to fight for veterans. As I was saying, these individuals who are veterans, some homeless, but some who work every day, but they make $15,000 a year or $25,000 a year, let me set the record straight, since we will vote on the tax bill tomorrow.

They do pay taxes. They pay Social Security taxes. Payroll taxes are taken out. And it is important that we have a tax bill that responds to Americans who served their country, who may not be making $250,000 a year.

Jesse Brown used to go across this Nation. He came to my district several

times. So many of us can account for his time. He was not sitting in his office with the door closed. He was on the road working and reaching out to veterans.

Let me tell you something tonight and to all of my colleagues, because I know that Jesse Brown will live and this is not his eulogy; my promise to you Secretary Brown is, one, to wish you well, and hopefully your voice will continue to be raised on behalf of the veterans as a private citizen. I have an obligation now to work with my colleagues, the gentlewoman from Florida, to ensure that the veterans of this Nation are continuously supported by this United States Congress.

Yes, to support tomorrow the fairest tax bill, the Democratic alternative that does not turn its back on the veterans of this country, the working men and women of this country, those that make $25,000, those that make $50,000, those who make $85,000, working every day to send their children to college, to make ends meet, those are the folks that we will be supporting. That is my promise and tribute to Secretary Brown, that I will continue to work for the 1,646.700 veterans in the State of Texas and, yes, the veterans all over this Nation.

Secretary Brown, we will miss you in your service to this Nation, but how proud you have made all of us for what you have done by offering almost your life on our behalf of freedom and, yes, fighting for the least of those, our brothers and sisters. God bless you and God bless America.

Ms. BROWN of Florida. Mr. Speaker, I thank the gentlewoman. Someone said earlier tonight, let the work I have done speak for me. It is clear that Secretary Brown has done the work, and we all are grateful.

The gentlewoman from Florida [Mrs. MEEK] wants to make a few closing remarks, but before she makes those remarks, I have a story that I want to share with America about Secretary Jesse Brown.

Often in this Chamber I hear bashing of government employees on this and government employees on that. I have got a story that tells how government should work. In my district that extends from Jacksonville to Orlando, in the Orlando area we had a serious problem as far as a facility for veterans. When the Base Closure Commission recommended closing the Naval Training Center in Orlando, which was devastating, we came up with how we could take that lemon and make it lemonade.

We invited the Secretary to come down to the Naval Training Center. He did. He viewed the hospital facility there. And he wrote the Secretary of Defense and asked him to give this facility to the veterans in this country. The Secretary of Defense gave the hospital to the veterans. They came, they needed an appropriation of $14 million.

Well, they came to me and we were able to get that $14 million in the budget. It was a win-win for the veterans in the area. And, of course, taking a lemon, making it lemonade.

But do you know that when the Republicans first took over, the first thing they did was to take that $14 million out?

I went to Orlando and met with the veterans and they got on the phone and called the Congresspeople from Florida, and we put that money back in. And today I can tell my colleagues that that hospital is up and operational, thanks to Secretary Brown.

That is an example of how government should work for the people.

Mr. Speaker, I now yield to the gentlewoman from Florida [Mrs. MEEK] for a few closing remarks.

Mrs. MEEK of Florida. Mr. Speaker, I thank the gentlewoman from the Third Congressional District of Florida.

The anecdotal record that you have just stated about Secretary Brown is proof in itself that he is a leader, that he is someone who knows management. He is a man who knows service.

I think his dictum was, service is the price you pay for the space which God has let you occupy. Secretary Brown was elevated to that position by President William Jefferson Clinton. I want to commend President William Jefferson Clinton for appointing Secretary Brown, for having the foresight to look for a man who had fought the wars and was back to this country. And the only thing he asked for was fairness for veterans.

It is wonderful to talk about Secretary Brown. That is why this seems a little like a eulogy, but it is not. It is not a memorial. He is a vibrant, young person who will leave here with all of the benefits accrued to a person who has been on Capitol Hill representing veterans.

We know we owe him a debt of gratitude. We owe you one for helping America understand about this great heroic gentleman who stepped out from the crowd, with a uniqueness and a cut above from the rest, to lead this country and to say to the world, we respect our veterans. We owe them a debt of gratitude for wanting to give up their lives for this country.

This is a unique tribute tonight. My heart is strangely warmed, as I know that people of this country, their hearts are warmed, and so are the veterans. We thank you. We thank America for having shared this fine gentleman who is of African descent and shared him with the world. I thank the gentlewoman.

Ms. BROWN of Florida. Mr. Speaker, I thank the gentlewoman from Florida.

As I close, I want to also thank President Clinton for appointing Secretary Brown as Secretary of the Department of Veterans Affairs. I often say when we begin our committee meetings, that Secretary Brown is one of the brightest spots in President Clinton's administration, but he is also one of the brightest spots in this country.

I guess I am going to say good luck. Joy go with you. Leave us here fighting. I know you are going to help us out when you can.

I thank my colleagues for joining me. I just want to thank Jesse Brown's family for letting him share this time with us. Let me say, God bless Secretary Jesse Brown and God bless America.

Mr. STUMP. Mr. Speaker, I rise on this occasion to offer remarks on the imminent departure of the Secretary of Veterans Affairs Jesse Brown. Secretary Brown is due to leave the helm of the second largest Federal agency at the conclusion of this month.

Special thanks should go to my Committee colleague Representative CORRINE BROWN of Florida for her efforts to organize this special order.

As the second secretary of this relatively new cabinet-level agency, I believe that Jesse Brown's steadfast advocacy has defined the role for future holders of this post.

No one has worked harder or more effectively to be an advocate for veterans. His decision to be an advocate inside the administration was both courageous and necessary. His passionate voice will be missed. Secretary Brown has truly been a "Secretary for Veterans Affairs."

We have had some differences in matters of policy. But we have shared—and we will continue to share—a sincere desire to serve our veterans. For I believe there is no higher calling than to serve those who have given to our country.

I want to take a moment to point out what I believe to be one of the major accomplishments of Secretary Brown's administration. His decision to hire Dr. Kizer as Undersecretary for VA Health Care, and permitting him to reshape the VA Health Care System, shows world-class vision. It was that kind of vision that was necessary for revitalization of the Nation's largest health care system.

I have been frustrated in the past by the lack of sustained progress in making our VA health care system better. I believe that with Dr. Kizer's stewardship, we are on the correct course. Secretary Brown should be highly commended for such foresight, and for the support he has provided to those who are improving the delivery of medical care services to our veterans.

On behalf of the entire VA Committee, I want to express my gratitude for Secretary Brown's undiminished support for veterans, and his willingness to speak on behalf of the veteran whenever it was needed. Secretary Brown, you have left an enduring legacy, and have raised the bar of expectations for your successors.

Mr. MASCARA. Mr. Speaker, I want to thank the gentlelady, and my colleague on the House Committee on Veterans' Affairs, for organizing this special order tonight to honor our esteemed Secretary of Veterans Affairs, Jesse Brown.

Jesse Brown came to his job with a long and distinguished career fighting for veterans

and their needs. As the executive director of the Disabled American Veterans and a decorated veteran, Secretary Brown had already fought many battles in the trenches, joining with leaders of other veterans' service organizations in convincing the Bush administration that veterans' problems could not be ignored.

He is renowned for his "in-the-face," frank talk about what his department needs in the way of money and resources to serve veterans. Many stories abound about how he cornered President Clinton—or some other administration officials—and bluntly let them know veterans would suffer if their budget proposals became law. He personally got the President to agree to add millions to the VA budget—a step which made many budget crunchers winch and many veterans smile.

The Wall Street Journal put it best when it said that to Secretary Brown, veterans' benefits are not entitlement but "the equivalent of inalienable rights." To the Secretary, it is unconscionable that our Nation will not hesitate to spend billions to prepare for war and then wants to "nickel and dime" veterans.

I stand squarely with Secretary Brown in believing our Nation owes a deep and lasting obligation to veterans. I can only hope his successor will have the same level of passion for our veterans.

I know we are going to deeply miss Secretary Brown and I sincerely wish him the best in his future endeavors.

Mr. STOKES. Mr. Speaker, I want to thank my colleague, the distinguished lady from Florida, CORRINE BROWN, for reserving this special order. I join her and many others in paying tribute to Jesse Brown, the retiring Secretary of the Department of Veterans Affairs Secretary Brown has served in this post for 4½ years. His departure brings to a close a distinguished Cabinet assignment which earned him the respect and admiration of veterans, their families, and people across America.

In January 1993, Jesse Brown accepted the call from President Clinton to head the Department of Veterans Affairs. He took responsibility for directing the Federal Government's second largest department, responding nationwide to the need for health care services, benefits, programs, and national cemeteries for America's 26 million veterans. When the President asked Jesse Brown to head the Department of Veterans Affairs, he selected an outstanding individual who was more than prepared to meet the challenge.

Jesse Brown is a veteran of the Marine Corps. He was wounded during combat in 1965 while patrolling in the Danang area of Vietnam. Before joining the Clinton administration, he spent his professional career with the Disabled American Veterans, serving as its executive director from 1989 to 1993. While in this post, he earned a reputation as a fearless advocate for disabled veterans and their families.

Mr. Speaker, under the leadership of Secretary Brown, the Department of Veterans Affairs has entered a new level of commitment and service. These accomplishments are the direct result of Secretary Brown's strong leadership. During his tenure, the Veterans Department has expanded benefits for veterans who were prisoners of war or exposed to agent orange, radiation or mustard gas. The agency has also expanded treatment for those suffering from post-traumatic stress disorder. Further, Secretary Brown has undertaken an aggressive research initiative to determine the cause of illness for military personnel who were involved in the Persian Gulf war.

Secretary Brown has to his credit the fact that they convened the First National Summit on Homeless Veterans during his tenure. He oversaw the reorganization of the veterans health care system to broaden access to the system and offer the highest level of comprehensive care.

Mr. Speaker, I am the former chairman and now ranking minority member of the House Appropriations Subcommittee on Veterans Affairs—Housing and Urban Development—Independent Agencies. I know of no one more committed to service than Jesse Brown. Veterans and their families are the beneficiaries of his hard work and dedication.

Mr. Speaker, as he prepares to depart his post, we take this opportunity to recognize and thank Secretary Jesse Brown for a job well done. We salute his tireless efforts and wish him well in his future endeavors.

GENERAL LEAVE

Ms. BROWN of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order, Secretary Jesse Brown.

The SPEAKER pro tempore (Mr. PAPPAS). Is there objection to the request of the gentlewoman from Florida?

There was no objection.

THE ECONOMY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Minnesota [Mr. GUTKNECHT] is recognized for 60 minutes.

Mr. GUTKNECHT. Mr. Speaker, perhaps I will not take the entire hour. There may be some colleagues coming down to join me in this special order tonight.

I want to talk a little bit about where we have been as a country; in other words, where we were, where we are and where we are going.

Mr. Speaker, it is my observation that for 40 years Washington had it wrong. For 40 years Congress thought that Washington knew best, that big bureaucracies could solve social problems. And so for 40 years, spending increased at double the inflation rate, taxes went up faster than the family's income, the debt ballooned and social problems got worse. Washington had it wrong.

Washington waged a war on poverty. We spent over $5 trillion on a war on poverty. But, Mr. Speaker, I encourage you to take a walk through any burned-out inner city, and you will see the victims of that war on poverty.

I ask you to ask yourself, who won the war on poverty? No, I think Washington had it wrong.

Washington overtaxed those who worked hard and, as some say, played by the rules. They squandered much of it on top-heavy programs that did little but breed more dependency.

When I was a child growing up and my parents raised three boys, I was the oldest of the three, my father was the sole breadwinner in our family. He worked in a factory. I am a blue collar kid. When I was growing up in the 1950's, the largest payment that the average family made was the house payment. In fact, families back then could afford to raise their kids on one paycheck, because the largest payment they made was the house payment. In fact, taxes back then averaged something like, Federal taxes, less than 4 percent of the family's income.

But today, according to the National Taxpayers Union, the average family in America today spends more for taxes than they do for food, clothing, and shelter combined.

No, I think Washington had it wrong. They thought if we took more money from families who were doing the right things and gave it to people who perhaps were doing the wrong things, we could solve those problems. And Washington was just wrong. We encouraged more irresponsibility, and we discouraged personal responsibility.

I want to show a chart here, because I had my staff do a little research. And it is something that I had suspected for a long time and I think this chart confirms it. What it shows is that since 1975, for every dollar that the Congress took in, and these red lines are really how much more the Congress was spending than it took in, for every dollar that they took in, for example, I think in the year 1976, for every dollar that Washington took in it spent $1.23.

The following year they got a little more frugal and dropped to $1.15. But if you take the averages from 1975 until 1994, for every dollar that Washington took in, it spent $1.21.

The good news is that since the Republicans took control of Congress, and these are the blue lines over here, that number has dropped to $1.08. And when we enact the budget that we voted on today here in the House and when that budget is finalized, we, in fact, will be spending 99 cents for every dollar that we take in. And we are laying the foundations for actually paying off the national debt. So things are changing here in Washington.

As my colleague, the gentleman from Wisconsin [Mr. NEUMANN], who put this chart together with the help of the House Committee on the Budget and the Congressional Budget Office, what it shows is that we have come a long way. Since the days when we consistently spent $1.20 for every dollar that we took in, right now we are actually ahead of budget, ahead of our goal and under budget.

□ 2200

And what we see in the red lines, this was our 1995 budget plan, the 7-year plan that we put in effect 2 years ago when those of us came here in the 104th Congress and decided to change the way Washington does business. What we said was, in fiscal year 1997 we would have a deficit of $174 billion. Now that is a lot of money. But when I first came to Washington, some people were saying that we could actually be seeing deficits of something like $274 billion.

Well, there is a lot of good news. Because what has really happened, because we have had a stronger economy and because we eliminated about $50 billion worth of wasteful Washington spending, because we have begun to limit the growth in entitlements, because we are actually doing what the American people had wanted Congress to do for 40 years, we are ahead of schedule and under goal.

As a matter of fact, in our budget resolution of 1995 we said that the Congress would spend no more than $1,624 billion. That is still a lot of money. But we said that is the most we would spend in fiscal year 1997. Well, the good news is that we are actually going to spend only $1,622 billion. In other words, this Congress is actually going to spend less money than we said we would spend in this fiscal year 2 years ago.

Now that is the good news. And that news gets even better. Because the economy has been stronger than we expected, we have actually taken in over $100 billion more than we expected to take in; and, as a result, rather than having a $174 billion deficit this year, it is actually going to be less than $70 billion.

If we stay on that path and we have that kind of fiscal discipline, I believe that this Congress will balance the budget not by the year 2002 but actually by the year 2000. I think there are good economic reasons to believe that that is going to happen.

The best news is that we are balancing the budget while saving Medicare and providing significant tax relief for working families here in the United States. As I mentioned earlier, we are also laying the foundations for actually paying off that debt, making Social Security truly secure, and leaving our kids a debt-free future.

Now I would like to talk a little bit about some of the things, and there is going to be a real heated debate, and already there is a heated debate about what actually is in the tax relief package. I think the more the American people begin to understand what we are really talking about in terms of tax relief for working families and what it will do in terms of spurring more economic growth and growing the economic pie even more, I think the American people are going to overwhelmingly support this tax relief package.

First of all, the cornerstone of this tax relief package includes a $500-per-child tax credit. Now that is a credit, and I think a lot of the people do not understand the difference between a credit and a deduction. In other words, if you have three children under the age of 18, you are going to get $1,500 more to spend. That is take-home pay that you get to keep and spend on your family as you see fit, not as some Washington bureaucracy dictates or decides for you.

There is $35 billion in post-secondary education incentives. I can say this: As a baby boomer and a father who has one in college right now and two teenagers that I hope will go on to post-secondary education of some kind, that is real relief. That means real things to real families, $35 billion to encourage families, to make it easier for families to send their kids to post-secondary education options. I think that is a great component in this plan.

There is also a broad-based capital gains tax relief. Now some of our friends on the left talk about capital gains and they say that is tax cuts for the rich. Well, in some respects, maybe they are right. In fact, back in my southern Minnesota district I have a lot of farmers and small business people, and they understand capital gains tax relief more than anybody else.

They do understand that many people who pay a capital gains tax are rich for 1 day: the day they sell their farm, the day they sell their business, or the day that they sell an asset or some investment that they have held for a long period of time, and in most cases they have been paying taxes on that farm or that business or that investment all along the way. So capital gains taxes are about encouraging families to save and invest for their own future.

I think it was Abraham Lincoln that said that "You cannot help the poor by destroying the rich." If we make it more and more difficult for people to invest and save, it means that we are going to reduce the amount of capital in our economy, and that means ultimately fewer jobs.

So capital gains tax relief is about encouraging people to invest and save for their own future, and it is about growing this economy so we have more jobs for the people who really need them.

We also expand the individual retirement accounts and make it easier for people to save for their future that way. We have significant reduction in the death taxes.

Now some people are saying, well, this is not as good as it should be; and I guess we would have to agree. But it is a giant step forward in saying that just because you die does not mean the Federal Government has a right to step in and take up to 55 percent of your estate.

So those are the basic components of the tax relief package that we are talking about. This package is aimed directly at America's middle-income wage earners. There is going to be an awful lot of rhetoric and misinformation spread about what is in this tax bill.

But the best information that we have, according to the House Committee on Ways and Means, and I think it is backed up by the Congressional Budget Office, is that those who are earning under $20,000 will get about $5.5 billion worth of tax relief under our plan. Families between $20,000 and $75,000 worth of income are going to get 83.5 percent. Families that make between $75,000 and $100,000 will get about $19.3 billion, and those making over $200,000 will get $1.4 billion.

If you divide that up, just simple arithmetic, take a calculator to it, you can work this out back in your office or do it in your home, but what it really means is that over 75 percent of the tax relief that is in this tax relief package that we will vote on tomorrow on the floor of this House will go to families earning less than $75,000.

Now I know there are some people who say those folks are rich. But those who may be watching at home do not consider themselves to be rich. It is targeted at middle-class people.

Let us talk about saving the Medicare system from bankruptcy. One of the other problems we realized when we came here, when I came here in 1994, was that Medicare was in trouble and that if we did not take some serious action, according to the trustees of the Medicare trust fund, they said that the Medicare trust fund was going to go bankrupt in only a few years.

So we said, well, what can we do? Well, one person once said that insanity is doing more of what you have always done and expecting a different result. What Washington always used to do when they had a problem with health care or anything else, they would figure out a way to crank down on fees. If price controls had worked, well, I think Richard Nixon would have solved inflation back in the 1970's with his price control program, but price controls do not work.

What does work is the magic of the marketplace. We said, let us try to figure out ways to take some of the ideas that are working so well in the free market system, out where we are seeing inflation in the health care delivery system dropping to 2 and 3 percent, why can we not take some of those ideas, use competitive forces, give people more choices and actually use the miracle of the marketplace to help control cost?

That is exactly what we have done. But inside of that we are still allowing total Medicare expenditures under our plan to go from $5,480 per recipient, in

other words, per senior citizen spending will be from $5,400 per senior citizen to almost $7,000 per senior citizen in the year 2002, in other words, in less than five years.

What we are really assuming, though, we are not cutting Medicare but we are slowing the rate of growth. We are slowing the rate of growth, and that ultimately will yield savings of about $115 billion. But most importantly, we are going to provide more choices to more seniors.

In fact, what I like to say to some of my folks is, we want to give seniors wherever they live the same kinds of choices that Members of Congress and Federal employees receive. If we structure this thing correctly, we think we are going to see lots of choices for these seniors.

One other important thing we have done, and I worked very hard on this and a lot of folks from other parts the United States have worked on it, we tried to change what is called the AAPCC formula and we made tremendous progress there. What that really means is, for those people who live in rural parts of the country, they are going to get closer to the same kind of payments for their managed care system if they decide to join managed care operations as those people that live in the big cities.

After all, that is only basic fairness, because those people that live in Mankato, Minnesota pay exactly the same taxes as someone who lives in Miami, Florida. So there is real fairness in this Medicare reform plan that we are putting forward, as well as reform which ultimately we believe will yield big savings while offering seniors more choices and actually more benefits.

This is another chart about Medicare, where we were, where we are going; and what it demonstrates is, what we are still doing is allowing the growth in spending in Medicare to go up, but at a much slower rate.

This Congress recognizes that doing more of the same will only get us in the same soup, so we are talking about real reforms. We are talking about reforms not only of Medicare but of welfare. Last year this Congress passed perhaps the most important welfare reform package that this country has seen, and it was about sending more of the power, the authority, the responsibility and the resources back to the States.

As I said earlier, for too long we thought that Washington had all the solutions, that Washington had it right, that Washington knew best, and that somehow Washington could make decisions to try and help people who were trapped in welfare, and all we really did was create more dependency. But as we evolved more of that back to the States, what we have seen is tremendous changes in what is happening in welfare across the country.

Let me just give a couple of statistics. My colleague, the gentleman from Florida [Mr. WELDON], is joining me, but I want to give a couple of statistics about what has happened with welfare and the case load since we came to Congress.

Nationwide, welfare rolls have dropped by 20 percent. Now, in real numbers that is 1,029,000 fewer families are on welfare today than when we came to Congress. And some of my colleagues and some of our conservative friends out in the audience say, well, that is wonderful because it saves money.

Well, the real goal of welfare reform is not saving money; it is about saving people, it is about saving families, and it is about saving children from one more generation of dependency on the welfare system.

In Minnesota, for example, 13,000 fewer families are on welfare today than when I came to Congress, and I am proud of that. In Wisconsin, where they have done an even better job, case loads have dropped by 97,000 people. In Oklahoma, case loads have dropped by 45,000. And that story is across every State, where we are seeing that States know best how to reform the system and encourage more personal responsibility.

I do have some other things, and I am joined now by the gentleman from Florida [Mr. WELDON], my good friend, the doctor, who came here with me in 1994, in the class of 1994, the 104th Congress. I yield some time to the gentleman.

Mr. WELDON of Florida. I thank the gentleman from Minnesota [Mr. GUTKNECHT].

Let me just say it is really truly a pleasure to be back here on the floor with my colleague tonight. I know back in the 104th Congress we did this many times when we were trying to move through so much of the important legislation that the American people had sent us here to do and one of the most important things my colleague has been talking about, which is welfare reform. It did take the Republican Congress, the 104th Congress, to deliver on the President's commitment to end welfare as we know it. And the impact that this is going to have, the gentleman is absolutely right, we should not equate it in terms of money saved.

The way we need to look at this is the impact that it will have on people's lives. The wrongness of the welfare system was driven home to me when I was a medical student. As my colleagues know, I am a physician.

I will never forget my first day on my Ob-Gyn rotation as a junior medical student. I was sent to the Erie County Medical Center to work in the clinic there, and my first patient the first day was a 15-year-old young lady who was pregnant out of wedlock.

I remember the tremendous feeling of grief that came over me as I was doing the initial evaluation on this young lady, and I just got to thinking about the impact that this is going to have on her life, that she may not be able to finish high school, that she may never be able to go to college, she may never be able to perhaps meet a fine young man, and she will have all the burdens of single parenthood.

Finally, I just could not control myself, and as I was asking her those questions that doctors will typically ask an expecting mother on their first evaluation regarding her health, I finally just said, "How could this have happened to you? I am so upset. You will not be able to finish high school."

I will never forget the words that she said to me. She said, and I have told people this and they do not believe it sometimes when I tell them this, but she said, "I deliberately got pregnant because I wanted to get out of my mother's place in the project and I wanted to get my own place."

As we have talked about here on this floor for years now, we have second and third generations on welfare, and that is not what welfare was meant to be. It was supposed to be a helping hand in a time of need. It was never intended to be a way of life. And it is truly amazing the impact that the welfare reform is having.

I know that some States passed welfare reform before the Federal reform went through. I have seen the data out of New Jersey, where Christine Todd Whitman in New Jersey passed welfare reform; Camden, New Jersey, dramatic reduction in the number of out-of-wedlock births without an increase in the number of abortions, suggesting that this program that paid more and more money for more children that were had out of wedlock was playing a role in the escalating rate of illegitimacy or fatherlessness.

As I am sure the gentleman from Minnesota [Mr. GUTKNECHT] is very well familiar, the thing that correlates the most, the highest, with very high incidence in a community of juvenile crime, of drug abuse, of illiteracy, of dropping out of high school, is the amount of fatherlessness.

□ 2215

There was a lady who wrote a book a few years ago and she made a statement that a woman needs a man like a fish needs a bicycle. She implied in that book that fatherhood was an unnecessary component for the continuation of our society, of our culture, of the human race. We have demonstrated beyond a shadow of a doubt that fatherhood is an essential component to the family unit. All we have to do is look at those communities that have the highest rate of fatherlessness and the extremely high rates of drug abuse, of juvenile crime, of illiteracy in those

communities. It is absolutely criminal that this welfare program has played a role.

I harken back to that day, my first day in the OB-GYN clinic as a junior medical student, and that young lady looking at me with a cold calculating look in her eyes that this pregnancy was a planned pregnancy for her. I said to myself, at that moment, I said, we need to change the welfare system in this country. I had no idea that someday, of course, I would be here, like the gentleman, passing legislation.

I believe the welfare reform that we passed may prove to be the most important accomplishment of the Contract With America, of all the provisions in the contract, because of the relationship between welfare and fatherlessness and all those other social pathologies that I talked about, juvenile crime and illiteracy and declining educational scores.

But it is really I think wonderful to now be fulfilling more of that original Contract With America. Tomorrow we will be passing our tax cut. It is a smaller tax cut than I wanted. It was not the size of the tax cut that I wanted to see. I wanted to see the inheritance tax go to zero. I would like to see the capital gains rate phased out completely. This is the best we could get from the President. It is truly a middle-class tax cut.

Just as it was ironic that it took a Republican Congress to fulfill Bill Clinton's campaign promise of 1992 to end welfare as we know it, it is again taking a Republican Congress to fulfill his campaign pledge of 1992, which was at that time, a middle-class tax cut. The reason Bill Clinton campaigned on those issues in 1992 is because the polling data showed that people felt like they were overtaxed, the polling data also showed obviously that people felt the welfare system was not working, and I think the gentleman spoke very eloquently on that issue, that the welfare system was a huge failure.

So he knew that back then. Yet he did not deliver in 1993, he did not deliver in 1994, and he fought us on welfare reform in 1995 and 1996. Now he is unfortunately, well, at least it looks like he may go along with this middle-class tax cut. I think this is really a wonderful opportunity for the American public to see how the elected officials are really delivering on what they wanted.

I think one of the greatest crimes when somebody runs and says I am going to pass welfare reform and then does not do it and says I am going to give you a middle-class tax cut and then increases taxes, it is not just that he is not delivering on welfare reform and he is not delivering on the tax cut, he is also undermining, undercutting the faith of the people in the political leaders they elect to Washington.

One of the things that was most pleasing to me, and I do not know if the gentleman saw this, there was a recent poll on the public's opinion of the Congress in the United States and that the approval rating is about 50 percent, which certainly is nothing to write home to mom about, but it was 19 percent in 1993. Actually in the fall of 1994 it was 19 percent.

I think we are getting the job done. There is a lot more to do. This is the greatest country in the world. The gentleman talked earlier about growing up in the 1950s. I grew up in the 1950s as well. Our parents gave us a great heritage. They inherited that heritage from their parents. The goal, the plan here is to be able to leave our children, I know the gentleman has kids, I have a daughter, to leave our children the same kind of heritage that we were able to inherit from our parents.

I want to thank the gentleman for yielding. It is really a pleasure to be able to be here tonight with the gentleman and to discuss these issues.

Mr. GUTKNECHT. I am delighted to have the gentleman. As the gentleman was talking I was thinking about growing up in the 1950s, baby boomers. I tell the story often that when I graduated from college, the speaker at our commencement address was the director of the United States Census. Most people do not remember who spoke at their college commencement ceremonies, but I remember and I remember what he talked about. At the time I was 22 years old. He said, "Most of the people in this audience are 22 years old and most of you were born in 1951. There were more babies born in 1951 than any other single year. You are the peak of the baby boomers."

In many respects when the gentleman and I came here as baby boomers and as members of the new Republican majority, I think we came here understanding that we had a special place in history and we had a special responsibility. As baby boomers, I look at this and I look at welfare reform, I look at Medicare reform and saving Social Security and balancing the budget for our kids, I really see those issues in some respects as generational fairness and generational responsibility. Because both of my parents are living, I want to make certain that they are taken care of, I do not want to pull the rug out from under them in terms of Medicare or Social Security.

On the other hand, I have 3 kids and I look at them and I say what kind of a country are we going to leave them? Is it going to be a country that is filled with debt, dependency, despair? Is it going to be a country where all the decisions are made for people in Washington? I say, we have an opportunity to make a real difference. I think that is the reason that I ran, I think that is the reason the gentleman ran for the Congress, because I think the American people in many respects have been way out in front of us for a long time.

The gentleman talked about polls. It is always nice to talk about polls we like, and sometimes we ignore the polls we do not. But I think we all instinctively know deep down in our bones that the American people have been asking for, indeed demanding, that Congress live within its means, that they begin to return more of the power, more of the responsibility, more of the resources back to the local communities, because they know that Washington does not do it best.

They read stories every day, whether it is a $400 toilet seat or whether it is money wasted in Bosnia or whether it is money wasted on other things, and they look at the welfare system and say, "This is just a big waste. All you're really doing is encouraging people to be increasingly more irresponsible."

We look at all the statistics and the evidence and Washington has failed. I am not saying that. The American people are saying that. In the end, though, as the gentleman was talking, especially thinking about my parents and the gentleman's parents and that generation, in the end a lot of this debate is really about values. I think that in many respects, what really makes this whole country work, I have had a lot of discussions and I have thought a lot about this, that a value is something that you believe in strongly enough that it will get you to take action. Because if you say you believe in something and you do not do something about it, you really do not believe in it.

There are certain values that I think have made this country work. Literally from that day at Valley Forge to today, there are certain values that make this society work and that are the glue that holds us together. I think if I were to reduce it to about 5, I would say it is faith, family, work, thrift, and personal responsibility.

The unfortunate thing about the liberal welfare state, in my opinion, is they tended to undermine some of those values. In other words, if you pay people not to work, you undermine the work ethic. If you tell people that you cannot receive benefits through a faith-based system, you undermine faith. And if you undermine the family, if you give people their own apartment and encourage them to leave home and have babies out of wedlock, you undermine the real cornerstone, the real glue that holds this society together, and that is the American family. And so I think the American people sort of knew and they still know that there is something wrong with this system that eats away at the very fiber, the very values, the glue that holds a society together, and they wanted something done about it.

In that respect, I do not think they look at us and say, well, we want you to have all the answers. What they really say is give us more of the power

and the decisionmaking back. That is what this tax plan is about.

I will tell a quick story. Going home last weekend, I am on the Committee on the Budget, I am proud to be a part of this Congress and I was proud to be a part of the 104th Congress as well, because I think we are beginning to turn this giant battleship around and we are beginning to sail it in the right direction. We have still got problems and we still make mistakes.

I told some people the other day that we recruit from the human face and we are subject to human frailties and we make mistakes. We have made plenty and we will make more. But I think on balance we are doing the right things and we are heading in the right direction. We are beginning to reinforce values, encourage Government accountability and encourage personal responsibility. We are starting to say, maybe there is a place for faith-based systems, whether we are talking about education, about welfare delivery, about something else. Again, we do not have all the answers, but I think we are moving in the right direction. I am proud to be a part of this Congress, I was proud to be a part of the Committee on the Budget that put this package together.

If I could, I would like to share a story. When I was going home this weekend, the Committee on the Budget met until about 7:30 Friday night, so I could not catch the last plane to go back to Rochester, MN. I flew back on Saturday morning. I did something that I do not do very much anymore, and I used to like to do this. Just look out the window. You are flying in an airplane, sometimes it is just nice to look out the window and daydream and think a bit. So I did that on the flight home. As I was flying, I looked down at this great country, and I began to think about all the great people who live here. This is a great country. It is filled with great people, and people with great dreams and people who were willing to take risks and risk their fortunes and perhaps build a business.

When I got home and my wife picked me up at the airport, we were driving home, we got to our neighborhood, about a block and a half from our house and one of our neighbors down there was having a garage sale. There was a family, they were getting out of their car and going up to this garage sale. They had used clothing and everything that goes on at garage sales. This family had four children. There were three older kids and there was one, one of those little chubbers, if the gentleman knows what I mean, that is sort of permanently attached to mom's hip. Mom was carrying the littlest one up to the garage sale. The others were running up. As we drove by, I thought, in this budget, we talk about numbers, $139 billion and 2.7 percent and all the other numbers, but in the end this budget and this tax bill is about real people. It is about real families. I thought about that family. To them, this tax bill means a lot. First of all to their kids it means a brighter future. It means that those kids have a better chance at the American dream. It means that we are not going to saddle them with debt that they will never be able to pay. But to that family itself, four kids, that is $2,000. I know, some of the people who are here in Washington, $2,000 does not seem like a lot of money, but to that family driving that car, going to that garage sale, $2,000 is a lot of money. That is money they can spend on their family, that they can save for their future. Then we think about the tax advantages as it relates to their education, for those kids' higher education. This is a very important tax bill for them. When we get involved in these debates here in Washington and we are talking percentages and billions of dollars, we sometimes forget all those people who live in this great country, all those people who take risks, all those people who invest, all those people who have families. Forty-one million children will benefit from this tax plan. I am proud of that. I think it is going to make a difference. I think it is going to mean a brighter future for those kids and for our country in general.

Mr. WELDON of Florida. I am really moved by the gentleman's comments, particularly as it relates to family. I was reminded as the gentleman was speaking of a family that goes to the church that I attend. They have five children. Ann and Bill Tanner, a lovely couple, with five kids, little stairsteps, from age 9 down to, I think their newest one is about a year old. Bill was working as an electrician. Now I think he is a caseworker for one of the county commissioners in Brevard County where I live. This translates to $2,500 a year for Bill.

□ 2230

And that means more money for clothes for the kids, money for vacation, something maybe that they have not been able to take for a long time.

So this is really about families, kids and peoples' lives, and, as you mentioned earlier in your special order here tonight, how back when our parents were raising us, that they sent just a small fraction of their income to Washington, and the biggest amount of the money went to pay the mortgage payment, and how now families are sending more to Washington than they spend on the mortgage payment and the food bill and the clothing bill.

It is amazing. Food, shelter and clothing do not consume as much as the bill from Uncle Sam. That is just wrong, and when you cannot put more money into the family pocketbook, it can make a real difference and a real difference in their lives.

And really what makes this country great, as you were looking down across the fruited plain at all the wonderful towns and cities that make this country the great country that it is, what makes those towns and cities work are the strong families in those communities, and it is really strong families that make strong communities that make strong nations.

Mr. Speaker, we for 40 years have been undermining the integrity of the family, and I was reminded as you were speaking about the failure of the welfare system of a book that I recently read by Marvin Olasky called The Tragedy of American Compassion, and it is really a fascinating book. If you have not read it, I would highly encourage it to all the Members of the House of Representatives, because Mr. Olasky is a very, very learned scholar, and he researched how we in America took care of the poor and needy in that time period in the late 1800s when Alexis de Tocqueville came to America and wrote his famous book.

One of the things he said in that book, Democracy in America, how he was amazed that there were no beggars and no homeless people on the streets of America, but if you went to London and Paris, that there were all these needy people there, and the thing that he discovered was that it was the faith-based organizations that were trying to intervene in the lives of people and to bring about a real hard change to enable them to be able to deal with their situation.

One of the great tragedies of our welfare system is there is no accountability, and you refer to that in your five principles that you mentioned. You mentioned faith. You mentioned family. You mentioned work, thrift, and you also mentioned personal responsibility, and that relates very much to accountability.

Personal responsibility involves if someone is in need, that you help them out if they are in need. But if they are in need because they are spending all their money on drugs or alcohol or they are not willing to work when they are able to work or they are engaging in other high risk behaviors, then I believe you have a responsibility not to help that person out because you keep them from dealing with the problems in their lives.

The great tragedy of this system is there is no accountability. You can be engaging in all kinds of behaviors that are very, very counterproductive that are an impediment to you being able to turn your life around. But the way the law is written, you cannot have any accountability, and simply by requiring people to work, it brings a very, very high level of accountability into this system. You cannot continue to get the benefits.

Faith is critically important. I have learned from experience that the people who really turn their lives around

are the people who make a personal faith commitment and have a personal heart conversion where they can actually come to grips with the problems in their life and help them to be productive and become productive. It really boils down to what is the right thing to do and what is the best way to help the people out.

Marvin Olasky's book was fascinating because one of the things he did in the book, of course, was he dressed up as a homeless person and he went into many of these homeless shelters and these soup kitchens.

Mr. GUTKNECHT. Here in Washington, DC.

Mr. WELDON of Florida. He did some of it right here in Washington DC; that is right.

And one of the things he was amazed at, and I heard him, he not only talks about this in the book, I heard him speak. Nobody would ask him why he was homeless. Nobody would ask him what his name was even or if he had a family. They would give him a meal, they would give him clothes, they would help him to get to the shelter, but they would never personally get involved in his life. And he compared that to what went on at the turn of the century when we were more effectively dealing with many of these problems and how they did that, they actually spoke into the peoples' lives, they got to know them.

I think what it really boils down to is whether charity is being performed by the church or by the faith-based organizations or by the bureaucracy in Washington, the government, the faceless, heartless, bloodless bureaucracy that just dishes out checks or units in the complex, and it is that human intervention that really changes people.

It is funny we should be talking about family tonight because one of the things that led me to getting into politics was I formed an organization in the community that I lived in called the Family Forum back in 1990. Ultimately that got me more involved in the political process and brought me to the point where I ran for Congress in 1994, as you did. But it was the family, the breakdown of the family, that caused me to form that group, the Family Forum, to try to make a difference in our community to try to deal with the terrible breakdown of the American family that we were experiencing.

Mr. GUTKNECHT. And if I could, the real tragedy, it seems to me, is that in many respects well intentioned government programs have made the breakdown of the family even worse, and again I think the American people are way out in front of us on this. I think they know that. I do not think they have to read that.

I also want to indicate before we leave the story of Marvin Olasky, I have read his work, too. I have had a chance to meet with him several times, a remarkable human being, and his story is a terribly powerful story. And I would say this for the benefit of Members or those who may be watching: I am just about out, but I have a very abbreviated version of that. And I would make it available to Members who would like the story of Marvin Olasky and the Tragedy of American Compassion and the history of how we really dealt with poverty in America and what de Tocqueville meant when he said that America's greatness was in her goodness and that, if we ever fail to be good, we will fail to be great; and goodness was not about more and bigger government programs. Goodness was about what you did in your community and your neighborhood, what you did in terms of volunteering and sharing with those who were really down and out.

The interesting thing too about the whole welfare debate and discussion is that there are some very good examples of programs that do work, but those are not the models unfortunately which Washington decides to model in most cases.

The Mormon church has a very good welfare system for members of their church. The Salvation Army is far more efficient than any State in the Federal welfare system in terms of helping people. And the real goal is not just to feed people, not just to feed people in terms of their bodily needs, but to feed their soul as well; and if that is not a component, the results and the evidence is overwhelming that it is not particularly successful.

I yield back to you.

Mr. WELDON of Florida. Yes, I just want to briefly add to something you were talking about, however well-intentioned, the programs can undermine family integrity. And I just want to say this in defense of our colleagues on the other side of the aisle who in many ways have been defending the status quo in some instances particularly as it relates to welfare reform, and the intentions were good. I do not believe when Lyndon Johnson and the Democratic leadership of the House and the Senate passed some of these Great Society reforms they had any intention to see the kinds of consequences that resulted.

They were really trying to help people, and the unfortunate reality is that the amount of poverty increased or stayed the same and a lot of the other social pathologies got much, much worse. I know that the figures in New York where I grew up are astronomical in terms of the impact the Great Society programs had on family breakdown. I think, if you go into some of those inner-city communities, the illegitimacy rate or fatherlessness rate is 70 percent, whereas it was 25 percent. And the academic scores in those communities have gone downhill, whereas you could go into Harlem in the 1940's and the academic scores in Harlem were no different from what they were in the poorer white communities in the Lower East Side. They were about the same.

And the thing, it is not a racial thing at all. It has to do in my opinion with the breakdown in the family and the tremendous impact that fatherlessness has on those families.

Mr. Speaker, let me just say that I know there are a lot of hard-working single moms trying to raise kids at home and that many great Americans have come out of those single mom homes, and some of those women just do an absolutely fabulous job. But just the reality is when you look at the communities and you look at the impact that the welfare state has had in terms of promoting illegitimacy and the impact that that has had, in turn, on breaking down the family, and the road was paved with good intentions. And you are absolutely right, Gil, the American people knew for a long time before all the studies, before all the statistics came in. They knew that it was not working, and they were asking for change, and they were asking for change for years and years just as they have been asking for tax relief.

They have known for a long time that they are sending too much of their money to Washington, they are not getting their money's worth, the product is too expensive, and they need a refund. They need a little bit more in the family account and a little less money going up here.

And it is really, I think, long overdue to provide family tax relief. I think the family child credit is going to go a long way to helping a lot of working families to be able to take home more. I think the inheritance tax, though it is very small and it is phased in over many years, is a good start.

I think that tax is immoral, to take somebody who has worked their whole lifetime, pumped typically millions of dollars into the economy in terms of creating jobs, in terms of paying taxes, and then once they are dead to put along a death tax and then come along and basically appropriate a third of what they had earned their whole lifetime. In my opinion it is just morally wrong.

We are making some headway in that. And there is probably nothing that we could do more to stimulate our economy, to help create high-quality jobs, to help ensure that America remains the world's leader economically than to put through this capital gains reduction. I think the capital gains rate should be zero. If you want to have a thriving growing economy that is creating high quality jobs, you make the capital gains rate zero.

Now, we were not able to get that, but a capital gains rate, I believe, of 20

percent is a good start. I think it is going to go a long way to help a lot of middle class families better make ends meet.

Mr. GUTKNECHT. Mr. Speaker, I was just going to say that I was smiling because when my colleague was talking, it reminded me of talking about taxes and spending and balancing the budget and what we need to do in terms of tax relief.

There is a farmer I was talking about balancing the budget with, an old farmer in my district one day. And he said: You know, he said, the problem is not that we do not send enough money into Washington. He said the problem is Congress spends it faster than we can send it in. And if we stop and think about it, he encapsulated the big part of the problem we have had for the last 40 years. In fact, some would say, well, you know, we just need to raise taxes. Well, if tax increases had been the solution to our deficit problems, I submit that we would have had a huge surplus already.

I know when we first started this debate when we offered the Contract With America, there were people who said, well, you cannot balance the budget and provide tax relief; I mean that cannot be done. And you certainly cannot do it while you are saving the Medicare system. And what we are proving, I think, today and tomorrow is, yes, you can. If you hold government more accountable, if you limit the growth in entitlement programs, if you actually make some targeted cuts in domestic discretionary spending, if you hold government more accountable and you return more responsibility back to families and people and communities and States, you can balance the budget, you can save Medicare and you can reduce the tax burden on American families.

And that is the good news, and as I say, and as you indicated, this plan is not perfect.

□ 2245

We hope as we go forward that there will be more room for tax relief. We would hope that ultimately we would adopt language similar to that the gentleman from Wisconsin [Mr. NEUMANN] is talking about, in terms of as we go forward, if we are correct that if we reduce taxes, if we allow people to keep and spend and invest more of their own money that the economy will be stronger, which will mean more jobs, which will mean more tax revenue.

Actually, I have some numbers, I had the budget office run these numbers for me. Right now the economy is growing at about 3.8 percent. We do not assume that that is going to happen. Some people said early on, we balanced the budget by rosy economic scenarios. Actually, we assume under this budget plan that economic growth is going to drop off the table, that it is going to drop from 3.8 percent this year down to 2.1 percent next year.

I do not think most economists, I do not think most Members of this body believe that is going to happen. I think what is going to happen is the economy might slow slightly to something like 1.3 percent.

If that happens, though, if the economy just goes to what would be more of a historic average in terms of economic growth for the next 5 years, and I think with the tax relief, with the balanced budget plan, I think with lower interest rates, I think it is very believable that we will have at least 3.1 percent growth rate. If that happens, in the year 2001, we will have a $28 billion surplus, and in the year 2002, we will have a $120 billion surplus.

Now, what should we do with that surplus? Well, our colleague from Wisconsin says, and I think it is a good idea, we ought to take two-thirds of that and apply it to some of the trust funds, the Social Security trust fund, the highway trust fund, some of the other trust funds which Congress has been borrowing from over the years and we ought to take some of that and provide additional tax relief.

The gentleman has talked about lowering the capital gains tax even more, doing more work in terms of the death tax, doing more work for families, but that frees up even more opportunities so that hopefully we can grow the economy even faster so that more of the people who are currently trapped in the welfare state can find jobs, can get off the welfare rolls and get to payrolls and that really ought to be our goal.

In fact, talking about welfare and how this all ties together, I thought it took a lot of courage recently for the New Republic, which is by its own admission a liberal magazine, came out recently and said, we were wrong. When they said that our welfare reform plan would not work, they said they were wrong. Now they have come to the conclusion that 6 out of 10 people that were on welfare a few years ago really should be off welfare.

As we go forward, as the economy grows and as we get more educational opportunities to some of those people, I think we are going to open up the American dream to a much larger group of people, to people who for a generation have thought that the American dream was not for them. So if we really love those people, we have to help them find their way off the welfare rolls and on to payrolls.

Because I have said this, and I really believe it, that a job is more than the way one earns one's living, a job helps to define your very life. I think people who are jobless tend to think of themselves as being valueless. So we need to help those people, we need to give them the encouragement, and sometimes we have to give them a little nudge to get them out on their own and instead of being dependent, becoming independent.

So this is about reinforcing those values of faith, family, work, thrift. and personal responsibility. We do not have all the answers, but as I say, and I think the American people understand, as was reflected in the poll the gentleman mentioned earlier, I think the American people understand that we are now moving in the right direction, that Congress said it is doing what it said it was going to do, and most importantly, it is doing what they have wanted Congress to do for many, many years.

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman from Minnesota for yielding.

Let me just say that I too am a sponsor of the legislation of the gentleman from Wisconsin [Mr. NEUMANN] to deal with the issue of paying off the debt. His plan I think is a very good plan. Once we start showing some surplus after the budget is balanced, what are we going to do with that money? It is a real legitimate question. What do we do with that money?

There will be people in this body, there will be people in this city, who will want to spend it all. And to take some of that money and use it to pay off the debt early, a $5 trillion debt, use some of it to provide some more tax relief, and yes, use some of it for targeted important spending like on infrastructure.

We have not been spending the kind of money we need to for roads and highways. We have to keep in mind that when we pay off that debt sooner, the interest payments get smaller, and suddenly, it is a double benefit because we are spending about $360 billion paying interest on the debt. If we did not have to make interest payments today, there would be no deficit. We would have a $100 billion, $150 billion, $250 billion surplus that we would be arguing about if the people who preceded us had made the tough decisions and had not run up this kind of a debt.

What a wonderful situation to be in, where we have those kinds of surpluses and we could really talk about putting more money into needy areas in our Nation's infrastructure and needy areas such as more health care, for example, or better health care for Americans, and then to be able to take some of that money and return it back in the form of tax relief.

I know for me and my district, people would like to see more money on the space program. I am proud to be able to represent Kennedy Space Center, the home of our space shuttle program. People in my community always talk about when are we going to go back to the Moon? When are we going to go to Mars?

In those early years in the space program, in the 1960's, when we were making that investment, that critical investment in the Apollo program, in the

Mercury, in the Gemini program, entitlement spending was about 7 percent of spending. The debt service was 4 or 5 percent.

Mr. GUTKNECHT. Now it is 16 percent.

Mr. WELDON of Florida. Now it is 16 percent. So it is incredibly important that we balance the budget, that we pay off the debt, that we provide badly needed family tax relief, that we fix the welfare system as we have.

This is about the future. I am told by teachers, there is nothing that motivates kids more to study math and science than to talk about the space program. It just makes their eyes get big, and if we can relate what they are learning in the classroom to applications in our space program, it just gets them so excited.

I do not think there is anything that the American people are more proud of than the tremendous accomplishments of our astronauts and the people who work in our space programs. But yet we as a nation would never be able to do that if we were not able to have the financial resources to do it. The financial resources only come from managing our resources properly.

This is just simple stewardship. It is the same stewardship that families use back home.

The gentleman was talking about the farmer. I can tell the gentleman that I have met countless families in my district, some of them ranchers, some of them working in the citrus industry, some of them working in the space program who have said to me, why can Congress not just do things the way we do things around the kitchen table? We realize we cannot do everything every month, so we set some priorities. And that is what this budget proposal, a lot of it is about, and what the Republicans in the 104th Congress and the 105th Congress have been about.

Let me just say it has been a real pleasure to join with the gentleman in this colloquy tonight. I would say to the gentleman that he has been a stalwart activist in getting the job done and delivering on the promises we made to the American people in terms of balancing the budget, preserving Medicare, providing badly needed family tax relief, and finally, fixing welfare.

It has been a pleasure for me to be able to work with the gentleman and the leadership that the gentleman has provided in all of these areas and to join with the gentleman tonight in talking about this. Because this is about the future.

Mr. GUTKNECHT. Mr. Speaker, I thank the gentleman.

In closing I would just like to thank the gentleman from Florida [Mr. WELDON] for joining me tonight, but I also want to say that this is an important first step. This is not the end of the road, this is an important step. But it is about restoring accountability to Government, it is about encouraging more personal responsibility, and it is about sending more of the authority back to communities, neighborhoods, and to families.

For 40 years, Washington had it wrong. For 40 years they thought Washington knew best and for 40 years, both the bureaucracy and the debt ballooned.

Well, now that is changing. Families are winning, and with their help, we will keep winning this fight.

NEW EPA STANDARDS WILL HALT PROGRESS IN AIR POLLUTION REDUCTION

The SPEAKER pro tempore (Mr. PAPPAS). Under the Speaker's announced policy of January 7, 1997, the gentleman from Pennsylvania [Mr. KLINK] is recognized for 60 minutes.

Mr. KLINK. Mr. Speaker, we come to the floor tonight with a heavy heart because we were hoping that as Democrats and as Republicans, we would be able to talk to the administration and have them reach a commonsense conclusion as it pertained to the progress that we have made in this country in abating air pollution; in the way we have accommodated the growth of industry in this Nation. While making the air cleaner, we have been making progress.

The Clean Air Act itself is a tremendous success. We continue to clean the air, and no one predicts during the coming years that under the current standards for particulate matter and for ozone that we would continue to clean the air. But today, the President of the United States has recommended a tightening of those standards.

In essence, it is changing the finish line as we are about to complete the race. It is saying to the Governors across this Nation and saying to mayors of cities and villages across this Nation and other political local leaders that we in the Federal Government think that we want to change the rules. It is a bad decision, it is a bad decision for the health of this Nation, because what will happen is State implementation plans aimed at cleaning the air are going to come to a grinding halt. They will have to be changed.

Things that are being done by industry, things that are being done across this country that are working, that are cleaning the air, will have to be changed. We know that an additional 400 counties across this Nation will be thrown into noncompliance, and when that happens, there will not be an industrial development in those areas.

Now, the White House has said that well, you will have to work with us. With a wink and a nod, they are saying we are not really going to enforce these new standards right away.

Well, to the administration I would say you cannot have it both ways. You cannot say that we have to live by the letter of the law and we have to tighten these standards, we have to move forward, and that is the excuse they are giving us, and then say, but we are really not going to enforce these regulations.

In an area like my region in southwestern Pennsylvania where we have lost a tremendous number of jobs over several decades, we are beginning to come back. But that progress that we have made and the progress that we think we are going to make over the coming decade will be stymied if the decision that the President has made today is carried forward and the EPA changes these regulations.

We have had hearings in this Congress; we have had hearings in the House of Representatives; we have had hearings in the Senate, various committees, and the science is not there. They want to go to a new standard, Mr. Speaker, which is called PM2.5.

Now, that is a scientific term, and I apologize this late at night for using such a term, but what it amounts to is going from one size of particulate matter, whether that is soot coming out of a smokestack or whether it is dust blowing off of a field somewhere in agricultural country, or whether it is coming off of an automobile. This is particulate matter, something that is thrown off by industry, or it is thrown off by nature. They are going to change the size of the particle that they measure. They are going to go from what they call 10 microns to 2.5 microns, about one-fourth the size.

The only problem is, in this Nation we only have about 50 monitors that measure this, not enough to have accurate data. Until we build those monitors, until we analyze the data from those monitors, another 5 years will pass, and at the end of that time, by law, by the Clean Air Act itself, we would have to change these standards again.

There is a simpler way to do this: Allow the progress that the States have made to move forward, Mr. President. To you and to Carol Browner I would say, allow us to continue to clean the air. Mr. President, your actions now in fact take State and local officials who have been making progress off the hook, areas like Washington, DC, that have to be in compliance for ozone by the year 1999, so that we save those children that are on the playground that may be asthmatic.

□ 2300

By 1999 we will hit the new standard. Not anymore. If the President gets his way with the new standards, if Carol Browner at EPA carries out these new standards, if we in Congress do not stop them, then we will give that 9- or 10-year-old on the playground in Washington, DC, not until 1999 to have cleaner air but until the year 2009, so

that child will be away in college somewhere. We are postponing the tough decisions. We are allowing the air to remain dirtier in the shorter term, and we do not know if the science we are pushing forward is accurate science.

I have spoken about this several times over the last 2 weeks because this is important. It reflects whether or not we are going to continue an industrial expansion in the Northeast and in the Midwest, and whether or not we are going to be able to carry out our defense flights in certain areas where in fact the airplanes, whether the commercial and military airplanes, are able to fly or not at certain times of day, depending on what the pollution readings are for particulate matter or for ozone.

It does not deal with the idea of transport, that pollution travels from one State to the other carried by the wind. Indeed, our State of Pennsylvania is impacted tremendously by the pollution that is carried in from the States to our immediate west. And we, Mr. Speaker, in addition to that, have that air passing through Pennsylvania, it comes to the State of New Jersey, it comes to the State of Delaware, and others.

Nothing that the President has proposed today, nothing that Carol Browner has proposed prior to this, really deals with the transport issue. This is not something that is based on good common sense, it is not based on good science, because we do not have the monitors to know the truth.

I will take time now to yield to my colleague, the gentleman from southwestern Pennsylvania Mr. MIKE DOYLE, my colleague who has labored on this issue long and hard, who brings a tremendous amount of knowledge in his role on the Committee on Science, who has analyzed this issue, who sticks up for working men and women, sticks up for businesses, so they are able to expand and create jobs.

Mr. DOYLE. Mr. Speaker, I thank my good friend and colleague, the gentleman from Pennsylvania, RON KLINK, for yielding to me.

Mr. Speaker, I share with the gentleman great disappointment today about learning of the President's decision to endorse the new national ambient air quality standards. Unfortunately, this is a victory for politics over science.

Earlier today the Committee on Science's Subcommittee on Energy and Environment, of which I am a member, released a detailed report of our findings based upon three hearings we have held on the NAQS. Under the leadership of the chairman, the gentleman from California, Mr. KEN CALVERT, and the ranking member, the gentleman from Indiana, Mr. TIM ROEMER, we conducted an exhaustive examination of the scientific bases for the new standards. I believe that the recommendation of the subcommittee's reports are a more responsible and balanced approach than that of the administration.

The plan outlined by EPA and now backed by the President commits us to standards that will be of great economic cost before we know enough to be sure that they will yield any public health benefit. The existing body of scientific knowledge is clearly lacking, especially for particulate matter. Even the EPA agrees with that assessment.

In its 1997 update to its Office of Research and Development's strategic plan, EPA identified PM as one of its six high priority research topics because of, and I quote, "A high degree of uncertainty about the size and the composition of the particles that may be responsible for adverse health effects."

Mr. Speaker, I think we all agree that there is a great need for more research. In fact, in all the testimony I heard from all the experts in front of the Committee on Science, the only thing they all agreed upon was that we need more research. The Committee on Science has already addressed this issue by authorizing $50 million more for PM research. This would lead Members to wonder, why should we move forward with a regulatory approach before we know if there is a problem that needs to be regulated?

In the Committee on Science's first hearing on the standards, Dr. Joseph Motterley, the new head of the Clean Air Science Advisory Committee, spoke for many when he stated that going ahead with the new standards was necessary in order to ensure that monitoring and additional research is funded.

Is this any way to operate? A new standard should be science-based, not a tool to promote the installation of PM monitors or to fund more research. This is putting the cart before the horse. First you do adequate monitoring and research, then you draw conclusions, not the other way around.

Mr. Speaker, as we continue with this special order, I will get into greater detail about what the Committee on Science found.

Mr. KLINK. Mr. Speaker, I thank my colleague and my neighbor in Pennsylvania, Mr. MIKE DOYLE, for coming forward with me tonight. I know that it takes a tremendous amount of dedication to stay this late in the day, when we really finished nearly 5 hours ago with our votes. I really appreciate the fact that the gentleman has dedicated so much effort to this issue.

I want to say to my colleagues, Mr. Speaker, that we are not standing idly by. We are not waiting and just reacting and hanging our heads, although the President now has agreed with Carol Browner, as though we are defeated. We are not defeated. We are going to move forward in a bipartisan fashion. We will develop a game plan.

We have a bill, H.R. 1984, which says and would prohibit EPA from changing these standards for 5 years. The Republicans and the Democrats are standing together on this issue, saying what we will do is exactly what Mr. DOYLE suggested. We are willing to spend $75 million a year to build the monitors, to do the monitoring, collect the data, make sure the science is good, make sure that what we are doing is not a rush to judgment, make sure that there is a health benefit.

So in this era when Congress has been beat upon for being so partisan, on this issue it is common sense, so we can actually see good science used in an effective way to make sure that we are moving forward, keeping the air clean at the same time that we are promoting the growth of our industries and jobs for people in America.

We have said, as Republicans and Democrats, let us make sure we are doing this right. Even Carol Browner, the administrator of EPA, and others in the administration agree with us when we say that, regardless of what you do, the air will be cleaner 5 years from now than it is today. So if we are making progress, why stop that progress?

What the President has done today, Mr. Speaker, first of all is stick a finger in the eye of all of us on the Democratic side, in particular, who have written to him, who have called the administration over the many past months and said, Mr. President, sit down with us. You want to have a dialogue on race relations, you want to have a dialogue about this problem, you want to have a dialogue about that problem. We want to have a dialogue with you about clean air. It is important.

We do not want asthmatic kids to get sick and die. We do not want the elderly to be forced inside their houses different days of the year because of the weather and the air conditions. We come from Pittsburgh, Pennsylvania, where we know a little bit about dirty air.

We know what happened in Donora, Pennsylvania, decades ago when people were dropping dead in the street. In my previous life as a news reporter I interviewed the doctor who was down there running around as people were actually falling dead in the streets of Donora, Pennsylvania.

We have cleaned the air. We have moved forward. The Clean Air Act is working. As we said to the President, you called upon us when you wanted to pass your budget. You called upon us when you wanted to talk about other things that were important to your administration. This is life and death to the economy of our region. Before you make a decision, have your people or you sit down with us and let us have a dialogue.

Not only did we not have that dialogue before the President made his announcement today, he did not even acknowledge our letter. What does that say to the 600,000 people that live in each one of the 40 districts of the Members of Congress from his own party who said to the President, sit down with us. Parley with us, talk to us about the impact that this decision on changing the ambient air quality standards would have on our region, on our businesses, on the children and the elderly in our districts, on the health care facilities in our districts, which, unfortunately, more and more are becoming the largest industries, because we do not make anything anymore. Now you are going to chase away the economic expansion that is out there.

Mr. Speaker, the Conference of Mayors said in an overwhelming fashion yesterday to the President, Mr. President, you are going the wrong way. If you pursue this line of changing the air quality standards now, it is the wrong thing to do. Do not do it. The President has ignored them.

Governors across this Nation, and the President likes to remind us that he was a Governor, Governors across this Nation have said to the President, it is the wrong thing to do. He has ignored them. State legislators across this region, other elected officials, union officials, have said, Mr. President, it is the wrong thing to do. He has ignored them, deciding only to listen to one person and that is Carol Browner, the administrator at EPA.

Mr. Speaker, it is a mistake. It is an absolute mistake. The President has received bad advice. He has not sat down to talk to those of us, to even say later on to the gentlemen from Pennsylvania, Mr. KLINK and Mr. DOYLE, to the gentleman from Michigan [Mr. DINGELL], I think you are wrong.

At least have the discussion. Do us the honor for the people that we represent, people who you asked to vote for you, Mr. President, to sit down and have this conversation with us, have a dialogue with us. But you cannot do that. In fact, we found out from the news media today that you made your announcement. Is this the way we work together? Is this the politics of inclusion? What will be the impact on the businesses that are growing in our region?

Mr. DOYLE commented a few moments ago about Jim Motterley, the current head of CASAC, who also said, I will paraphrase, I do not have his exact words in front of me, that perhaps the money we would be spending to set new standards would be better spent to bring areas that are currently not in attainment into attainment.

We have counties across this Nation, regions across this Nation, that are out of the current attainment standards, but they are making progress. They are implementing standards to get there. This takes them off the hook. They no longer have to do that, because we have now said that the standard you have been striving to reach that you are still not in attainment with is not there anymore. We have created a new standard, so the air can be dirtier for a longer period of time.

Mr. Speaker, my colleagues understand that. We need Members of Congress to rally around, Democrats and Republicans in the House, in the Senate, to come onto our bill, H.R. 1984, so we can say to EPA that it is the will of Congress that we not change these standards while they are working, while we are cleaning up the air, while we are creating a healthier atmosphere in this Nation. Instead, let us do the right thing. Let us build those monitors for PM2.5. Let us deploy them. Let us collect the data, and 5 years down the road let us make a decision based on sound science.

Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. DOYLE].

Mr. DOYLE. Mr. Speaker, I want the gentleman to know all of us in the western Pennsylvania delegation have appreciated the gentleman's leadership on this issue. I was just thinking back when the gentleman was talking. I grew up in Swissvale, Pennsylvania. I have spent all 44 years of my life in the community of Swissvale. My father was a steel worker and worked on an Edgar Thompson steel mill in Braddock. He spent all of his life in that same town, as did my mother.

When our grandparents came over from Ireland and Italy, that is the town we settled in. That is not unlike many families in western Pennsylvania, who have spent a lifetime in this community. We remember what the air was like. We remember the days when there were orange specks on the car when we would come out in the morning, because the mills had let out, before there were stricter air controls. Nobody wants to return to those days. I know the gentleman has two children, I have been blessed with four. We care about our children. We want them to breathe clean air.

I get a little bit disturbed when the people who have been trying to frame this debate and those of us who have been questioning the science of these new clean air standards somehow do not want clean air for the community. The fact of the matter is the air in Pittsburgh is as clean as it has ever been.

In fact, in the past 5 years a study has shown that the air in Pittsburgh, just in the past 5 years, is 64 percent cleaner since when the old standards were implemented in 1990. We have already made tremendous progress. I think it is interesting to note, and a lot of people may not have realized, the American Lung Association of Western Pennsylvania has taken a position contrary to the national American Lung Association.

Mr. KLINK. Mr. Speaker, it is my understanding, and correct me if I am wrong, Mr. DOYLE, but it is my understanding that in 1996 and thus far in 1997 our Pittsburgh region has not been out of attainment.

Mr. DOYLE. Not a single exceedance in those 2 years, and only an average of four exceedances a year during the years 1991 to 1995, representing a 64 percent improvement in our air quality.

I think it is interesting. This is a letter from the American Lung Association of Western Pennsylvania. In the letter they start by saying, "We would like to thank you for the support of the work of our organization, and we want to share with you our grave concerns over the position on particulate matter taken by the American Lung Association.

"In its broad brush extremist overview of what it deems to be a widespread problem, the national American Lung Association is ignoring our stunning progress in cleaning up our local environment, and the overwhelmingly good to moderate air quality we enjoy, as well as the potentially devastating effect that this legislation could have on our region's economy."

This is from the American Lung Association of Western Pennsylvania.

□ 2315

Mr. KLINK. Reclaiming my time, they realize the progress that has been made in southwestern Pennsylvania, they understand the good things that have been done with the air. And the gentleman brings up a fine point. This whole issue came to light when the National American Lung Association brought suit against the EPA, saying that back in 1987 when they went from total suspended particles to PM10, 10-micron size particles, since then, every 5 years they are supposed to revisit the issue.

They have not done that. So it is time to revisit. It does not say they have to delay. It does not say they have to make it more stringent. It simply says they have to deal with PM, or as we say, soot or dust in the air.

So here comes CASAC and they give the recommendation that we go from a 10 micron down to 2.5, but there are a lot of other things that they do not make recommendations about. We do not know, again, because we do not have the monitors, how bad the situation is.

So where did this ozone thing come from? Legally, and the gentleman I know would agree, we do not have to deal with ozone right now, particularly at a time when the transport issue of ozone from one State to another is just being dealt with by the transport group that has been studying it.

Mr. DOYLE. I think it is important for the public to understand these issues like transport zones. When we think of Pennsylvania and what has

been happening, particularly in our region, as we lost jobs and factories in western Pennsylvania to States like Ohio and States west of us, yet western Pennsylvania is literally the victim of pollution that is blowing from the west over to the east.

If we cleaned up each source of pollution, every source of pollution in western Pennsylvania that was being caused in western Pennsylvania, we would still be out of attainment because of the pollution that blows across our borders from western States.

Mr. KLINK. Reclaiming my time, under the new standards. Under the old standards, we are fine. But under the new standards, the gentleman is right.

Mr. DOYLE. What is our State supposed to do? We said jokingly, maybe we need to set these giant fans up along the border and blow it back to Ohio. But the sad result of the situation is our young people are leaving western Pennsylvania because there is no opportunity there. And part of the reason there is no opportunity there is the factories are not locating in an area that is nonattainment because of the cost of compliance, and we are losing them to States like Ohio, who are sending their pollution over to western Pennsylvania.

I just want to take a second to read the summary. We just had this report released this afternoon. This is the report from the House Committee on Science, of which I am a member, and I want to read the summary because I think it is important for people to understand this:

"We have had regulations on large particulate matter, which is known as total suspended particles, that have been in place since 1971. Particles of 10 microns or less, PM10, have been regulated since 1987."

Now to give my colleagues an idea of what we are talking about here, a human hair is 75 microns. So we are talking about PM10, 10 microns, versus 75 microns, the size of a human hair.

And this issue is a very narrow one, "whether there is sufficient scientific evidence to impose an exact standard for particles below 2.5 microns at this time. Although much of the research EPA has compiled is suggestive, there are too many uncertainties in the data and the interpretation of that data to form an adequate basis for moving ahead with a strict PM2.5 standard at this time. The weaknesses of the epidemiological evidence discussed above are of particular concern. Our subcommittee has received testimony that, except for PM, EPA has never set a standard for criteria air pollution without clinical, animal, toxicological, and other studies supporting the epidemiological results. Yet studies such as this that do exist are inconsistent, and do not resolve but rather add to the uncertainties about the effects of PM2.5. Moreover, this committee has received testimony on many of the basic questions that still need to be addressed before we have a clear understanding of the impacts of PM2.5."

Chairman SENSENBRENNER I think said it right: "The citizens of this country have a right to expect that the new air quality standards be science-based. However, in this case, EPA has put the regulatory cart before the scientific horse."

Mr. KLINK. Reclaiming my time, the gentleman again makes good sense. To boil all of that down, the gentleman is right, when we talk about the width of a human hair being 75 microns and we have been measuring PM10, or 10 microns, that is about one-seventh the width of a human hair.

Now they are talking about going to one-fourth of one-seventh the size of a human hair. That tells us how crazy this is. They are talking about size alone. There are different kinds of particulate matter floating around. Some of it, as I said, is found in nature. We heard testimony in the Committee on Commerce, where they said if you live in an area like New Mexico where you have high alkaline soil that is blowing in the wind, you could have problems.

What about if some of these particulate matters that are being ingested into the lungs are more toxic than others? This is not addressed at all in these new ambient air quality standards suggested by Ms. Browner at EPA and now endorsed by the President.

What about a blend of different kinds of PM2.5? Does that cause more of a toxicological problem? We do not know because, as my distinguished colleague just pointed out, we do not have the studies. We do not have enough epidemiological studies, toxicological studies. All kinds of studies need to be done, and we do not have that data yet.

We also find ourselves in another particularly bad position. I do not like the fact that we are here on the floor tonight, I say to the gentleman from Pennsylvania [Mr. DOYLE], and Mr. Speaker, having this public disagreement with our own President.

I stood up in 1993 and gave this President a very, very difficult vote when he had a budget that he said the future of his presidency depended on, and I still bear the scars politically of that very tough vote. It was the right thing to do, because since 1993 the stock market has more than doubled, unemployment has gone down, we created employment, the deficit has plunged; and we, the Democrats that took that hard vote, need to have that credit, and the President needs to have the credit for putting that plan together.

So I have stood with this President when it was unpopular to stand with him. At other times when we disagreed, we have just agreed to disagree. One of those issues was on trade, it was on NAFTA, with a starkly different opinion of what this country's trade policy should be.

But I fear that what has been set up with a double whammy of the passage of NAFTA and now these proposed ambient air quality standards being tightened is the companies in our districts or that are looking at coming to our districts will say, "Congressman DOYLE, Congressman KLINK," and in fact some them have already said this to us, this is not something we are pulling out of a hat, it has happened, "we would be crazy to expand a plant or build a new plant in southwestern Pennsylvania when we could go to Mexico or to Canada, bring other products in because of NAFTA, with no tariff, and we do not have to play by the same environmental rules. We do not have to install the same scrubbers. We do not have to have the expensive pollution equipment." And so we find ourselves the victims of a double whammy.

How can the economy of this Nation continue to grow? That is the problem that the workers or potential workers, the kids that are in school, that are looking for jobs in our region, are going to have. We will not have the growth of jobs. They get caught in this double witching thing that is going on.

The fact of the matter is that when these new regulations go into effect, and with the ozone issue, the day that this happens, 400 counties across this Nation go out of attainment. In those counties, no one is going to come in if they are already out of attainment in the new standard and say, "I am going to build a factory. I am going to expand a factory here. I am going to create employment."

They are not going to build there. It is that simple. First of all, they may not be able to build because that day the local government probably cannot issue them a building permit. That happens immediately.

Now the EPA will say, "Wait a minute, Congressman KLINK, we do not say that you cannot have a building permit." Well, of course not. The EPA does not issue building permits. But they force the government leaders to make that kind of a decision. They force the kind of decision where the local government leaders might say, "You have to go to reformulating gasoline. You have to go to no further building construction in this region. You have to go to certain days that you are carpooling," or whatever it is that they have to do to reach at that attainment figure. The local government leaders are the ones that are stuck at the bottom.

It is this administration now and the EPA that is forcing the local leaders to make those decisions. That is why the Conference of Mayors says, "No, Mr. President do not do this." That is why the governors and the State legislators are saying to the Federal Government,

"Do not force this upon us. The current system is working. You are going to put us into a situation where we cannot win, where we cannot expand the wealth of this Nation, where we cannot create new opportunities."

Mr. DOYLE. My colleague is so much on the point. It is not only new jobs, it is existing jobs too. I think right in the Monongahela Valley, the Clairton Coke Works. When we talk about the proud heritage that Pittsburgh had in the steel industry, as we all know, anyone that has lived in western Pennsylvania, we understand what has happened in the steel industry when the downsizing took place, when many hard-working western Pennsylvanians found themselves without work because of the collapse of the steel industry.

But we still have some plants up and operating. Edgar Thompson Steel Mill in Braddock, the steel mill that dad worked at; and the Clairton Coke Works, supplying coke all over the country, it is in production and it is at peak capacity.

Right now, if these new standards are implemented, a place like the Clairton Coke Works are going to be shut down. We have got five communities around Clairton, Glassport, Liberty, Lincoln borough, towns like that, where the major importer of those five communities is Clairton Coke Works.

And that is a situation where U.S. Steel is going to have to make a financial decision that they can no longer operate that plant because the cost of complying with these new regulations would exceed the profit margin. It just would not become economically feasible to do that any longer.

Mr. KLINK. The gentleman is on a very good point. I do not know how much USX has invested in Clairton. I have been by the Coke Works many times, dozens, hundreds of times probably. But I know that they have spent tens of millions of dollars modernizing and cleaning the air of that facility.

I have got small specialty steel companies and small chemical manufacturers in my district that have spent anywhere from $40 million since 1990, since the Clean Air Act amendments, to 160, 170 million per plant to clean the air. So the gentleman is right, that is what the President and EPA are doing right now. They are saying, "After you spent these tens of millions of dollars or hundreds of millions of dollars cleaning the air, it is working, forget about it. Now we are changing the rules. We are changing the standards." And do we have the science? No. Have we done the toxicological studies? No. Have we done all the other studies? Do we know what we are really doing? No.

I would say to the gentleman from Pennsylvania [Mr. DOYLE], we in Pennsylvania, as I mentioned on the floor before, we went through it with EPA where they were forcing us to go to centralized emission testing for the cars. And the Federal Government EPA cost the State of Pennsylvania a $145 million court settlement that came out of the pockets of the taxpayers of Pennsylvania and did not clean up one speck of air.

Mr. DOYLE. The gentleman is right. And when we talk about the President and EPA saying, "Work with us, you have got 10 years to make this compliance," what type of investments do you think U.S. Steel is going to make in the Clairton Coke Works knowing that this clock is ticking right now?

Let us talk about another subject that is very near and dear to both of us and to the very survival of the Monongahela Valley, and that is the Mon-Fayette Expressway. What is going to happen to projects like the Mon-Fayette Expressway when construction projects of that magnitude are going to have to be put on hold, too, because of these new standards?

I think it is an insult to the intelligence of the people in western Pennsylvania to believe, and as my colleague said it before, that we will put these new standards in because we have to follow the letter of the law, but now we are supposed to believe all of a sudden EPA is going to throw the rule book out and they are just going to arbitrarily on the enforcement side of things say, "Do not get nervous about this. You have got 10 years to do this. We are going to be very flexible with you. We are going to work with you on this."

I have not seen flexibility in the EPA in all the years that I have had to deal with them, and I do not believe for one second there is going to be flexibility once these new regs are implemented. And the losses that we are going to see will be not only to existing industries, but the fact that we are not going to see new industries make investments in this region and we are not going to see existing industries do any upgrading when we know what has happened.

□ 2330

We have a 400-county blacklist that is going to take place when these new standards are implemented. There are literally going to be 400 counties whose names are going to be "don't do business here, don't put a new factory here, don't make any upgrades or investment in your existing plant here, because pretty soon the bar is going to go from here up to here and it is going to cost you a fortune to comply with that."

What are we asking the President and EPA to do? Are we asking them to stop all efforts to clean the air? That is not what we are asking at all. There are plans in place as we speak. There is a SIP in place, a State Implementation Plan as we speak in western Pennsylvania, in the State of Pennsylvania, making the air cleaner in western Pennsylvania every day that we are here.

What were the recommendations which we made to the President? We said, postpone the standards. EPA should postpone the new standard until there is sufficient scientific data collected and analyzed. That is the first thing we asked. Secondly, we said further research is necessary, and we will give you the money to do the research. On the Committee on Science we authorized an additional $50 million. In the bill of the gentleman from Pennsylvania [Mr. KLINK], we are going to authorize an additional $75 million a year for 5 years to do research so that we can start to collect 2.5 and analyze it. We are doing that in this bill. We said we need a monitoring system to fund it and deploy it. The gentleman addressed that in his bill. Then we say EPA should make these data sets available. There are data sets that were in the Pope study, the Harvard six-city study that have yet to be released for independent review and analysis.

Here we are asking the EPA, asking President Clinton, the administration, not to stop cleaning the air, not to roll back any regulations that are in place. This is not going back to the old days. We are simply saying to them, let us continue to clean the air in western Pennsylvania and across the United States and while we are doing that, let us do some more research. Let us collect the data. Let us be certain that the hundreds of millions of dollars that are going to be spent on these new regulations are at least addressing a problem that is real and that when we get that new science and research, that once we have identified the cause of the problem, they do not know what it is about the particle.

The studies on 2.5 and 10 in one study both showed the same health effect. A lot of people were suggesting maybe it is not the size of the particle that is the culprit. Maybe it is not 2.5 we should be regulating. It may be something else within the particulate matter. All we are asking for is some more research, more science, more common sense as we continue to make the air cleaner in western Pennsylvania and across the country. I do not think that is a radical position. I think that is the common sense position that we have taken with this administration.

Mr. KLINK. Reclaiming my time from the gentleman, the gentleman makes a good point. Let me just switch it back over to ozone, which of course as we said was not addressed in the lawsuit, is not something that needs to be addressed right now. And what the administration and what Ms. Browner in fact has said is we are going to go from .12 parts per million over a 1-hour period to .08 parts per million over an 8-hour period. The people at CASAC said that you go .07, .08, .09. These sound like very small differences in numbers, but it is in fact going from .09 down to .08 that throw those 400 additional counties out of attainment. All

of the scientists who came to us, everyone, said there is no bright line where the public health greatly improves from one level to another. So why are we throwing 400 counties out of attainment and not having a bright line that benefits people?

Mr. DOYLE. If the gentleman will yield on that, I think it is important for the public to understand, we use terms like CASAC and bright line, CASAC meaning the Clean Air Scientific Advisory Committee, but let us talk a little bit about this bright line thing too because I think it is important for people to understand. What the scientists were telling us is whether you set that standard where it is now or whether you lower it, there is no measurable difference in the health effect on individuals. They could not see any clear level to say, "Look, if you set it below this particular level, then it will be a great increase in health. This will greatly decrease the adverse health effects." They could not find where the line was on ozone to set where it would make any difference in the health.

The gentleman brings up a good point. Why would we want to shut down industry? Why would we want to displace jobs, put people out of work to set a line that we are not even certain that the line we are setting has any measurable health effect or any benefit?

Mr. KLINK. Following up on what the gentleman said, he mentioned that all of us, and this by the way I will mention just because both of us are from southwestern Pennsylvania, this is not a Pennsylvania issue, this is a New Mexico issue, it is a California issue, it is a Michigan, Ohio, Illinois, Indiana, Iowa, New York, all the States across this Nation will be impacted. We just both happen to be here at this late hour, both of us coming from southwestern Pennsylvania. Our region is not the only one that is going to be impacted. Our whole Nation is going to be impacted. The health of our whole Nation is going to be impacted by this decision. Indeed, the adverse effect to the wealth and the growth of industry of our Nation is going to be adversely impacted. This is not just a Pennsylvania issue.

But as the gentleman mentioned earlier, we grew up in southwestern Pennsylvania when people used to go out and brush the dust off their lawn, when there were certain days, and we kind of laugh about it now, but you would hang your laundry out, then you would kind of shake the dust off the laundry at the end of the day because of course the particulate matter would come floating down over your laundry as it hung outside. The air was dirty. People got sick. But as we have cleaned the air in southwestern Pennsylvania and other places across this Nation, in fact, they had the same experience in London back in the 1950s, the incidence of asthma has increased. Why is that? We do not know. There are many areas of speculation. But the point in fact is we do not know why in some instances when the air gets cleaner, asthma increases. Are there other factors?

Many people believe that outside air quality has very little to do with asthma, that it is an inside air problem. Some people recently have suggested this could have to do, and particularly in areas where there is poverty, where people are living in squalor, that there could be a protein or enzyme thrown off the waste products of cockroaches and other insects that are in homes. Is that part of the problem? We do not know. But if my colleagues would support me with H.R. 1984, we would have 5 years to do the study, we would have 5 years to continue on the track that we are on now to continually clean up the air, to improve the health of this Nation, to know where industry is going, while we spent $375 million doing this thing right, building the monitors, collecting the data, making sure that we are headed in the right direction for the health benefits of everyone.

I gave up a very good job to come to Congress. I am here because it is a wonderful honor to serve this Nation. I want to make the life of the people in my region and of this Nation better. That is why I am here. I also came here as I know the gentleman from Pennsylvania [Mr. DOYLE] did because we want to improve the economy of southwestern Pennsylvania, an area where 155,000 manufacturing jobs have been lost over a two-decade period, because we are selfish in a way. We want our children, his 4 children and my 2, to be able to grow up in southwestern Pennsylvania. I will be darned if I want them breathing air that I think is going to kill them or eventually kill or injure my grandchildren. This is not some excuse for industry. This is about what we feel is good science, what we feel is a prudent way of going about making decisions that impact the health and the wealth and productivity of this Nation.

Mr. DOYLE. That is really what it is all about. It is about the future and it is about our kids. The politically expedient thing to do would be to just go along with this. Both the gentleman from Pennsylvania [Mr. KLINK] and myself have been taken to task by the local Pittsburgh newspaper, by environmental groups that somehow we do not want the air to be as clean as they do. We know this is nonsense. This is not only about clean air for our kids, it is about a future for our kids in western Pennsylvania. That is what I think it is all about. The gentleman brought up a good point. I was reading an article just a couple of days ago that was suggesting that maybe one of the key contributing problems to these respiratory illnesses and asthma may not be so much the outside air but these hermetically-sealed office buildings that so many people are living in and as we have these new energy-efficient windows and people have got the air conditioning on and they have got all the windows shut and the air is not getting circulated through the house, that it may well be what we are breathing indoors can be much more damaging to us than what we are breathing outdoors, and people spend about 75 percent of their time indoors instead of outdoors. Particularly the reason a bill like H.R. 1984 makes so much sense. What we are saying is we need to find out about these things, we need to learn what is it that is causing these problems.

Mr. KLINK. Is there anything that the gentleman has read in the standards proposed by Administrator Browner and now endorsed by the President which would address this sick building syndrome that the gentleman has described?

Mr. DOYLE. I see nothing in the standards that would address it. This is a prime example of why more research is necessary. What we see in today's standards is not going to do anything. Administrator Browner when we had her before the committee, too, never wanted to discuss economic impacts, because she said, "I've got to make this decision based solely on a health decision and not on economic benefits."

I am sorry, but I have to look at the economic impacts to this legislation because we have got real people out there living in western Pennsylvania and all across this country that are going to suffer severe impacts as a result of these standards. I want to just read a study that has come out. There is some ongoing research by environmental economists such as Dr. Vernon Henderson, Brown University; Fred Reuter from Consat Research Corporation and the EPA's own draft regulatory impact analysis for PM. And the following economic impacts could well result from the proposed NAAQs which have just been okayed today by President Clinton. What are some of these consequences? Increased business operating costs, job losses, reductions in worker compensation, decreases in industrial output, and increased expenditures on road cleaning and air quality monitoring by local governments. They go on to say the areas experiencing these effects will be those that do not and in many cases literally cannot comply with the proposed PM-2.5 standard. Several hundred counties and as many as nearly 90 metropolitan areas will be in nonattainment when the full implementation period begins. As local, regional and controls yet to be developed are applied, these numbers will ultimately be substantially reduced, though 30 to 40 areas are likely to remain in nonattainment for

many, many years and consequently much economic pain and damage will result lasting many, many years.

They say initially 20 to 25 percent of the entire U.S. population and labor force will reside in these nonattainment areas. Approximately 4 percent of the jobs in these areas will be lost if the proposed NAAQ's for PM-2.5 are adopted. These job losses will occur in nearly every sector of the economy and will be most substantial in the service industries. Workers who continue to be employed in these sectors in nonattainment areas will likely experience stress and uncertainty regarding their futures and their compensation. Small businesses will be disproportionately impacted and the capital cost in current dollars will exceed $100 billion. Those are real numbers affecting real people, not only in western Pennsylvania but across this whole United States.

Mr. KLINK. The gentleman is right and I am glad the direction that he is going with that. Because as he mentioned, Administrator Browner kept saying she has to base this not on economics but strictly on what is best for the health of the people. There are a lot of different things that create good or bad health conditions. When industry was crashing down around our ears in the Northeast and in the Midwestern United States people suffered a loss of jobs, a loss of health care benefits, there was increased domestic violence, higher crime rates in our community, higher suicide rates as people's lives fell apart, the social fabric of our community fell apart. If you do not have money in your pocket because you did not have a job and you did not have health care benefits, then your wife if she were pregnant could not go see a doctor for prenatal examination, your young children could not go see a doctor. Many times other people who were dependent on you, you yourself did not get to see a doctor. What was the adverse health impact? That will be seen again if we have the kind of loss of job production that we think we are going to see from this and all evidence we are going to have from this. But beyond that, the administrator says the air will still get cleaner. The Clean Air Act is working. People's health will continue to improve. So you cannot have it both ways.

□ 2345

And that is exactly what they are attempting to do with this issue, and it is why, and I understand that our colleagues, many of them, have come up and thanked us for our leadership on this; many of them are signing on to H.R. 1984, particularly today. I got even calls today from Republicans and Democrats in the other body who are now interested in our efforts and want to coordinate their efforts with us.

We have been busy on both sides of the aisle dealing with reconciliation, trying to make this balanced budget program work for our constituents, and so many Members of the House and the other body have been focusing in on other issues. We have flagged this issue because it is so important, so vitally important to our region.

But I think that what the President did for us today, as he took what I think was not a very good step in a very poor direction by recommending these new ambient air quality standards, I think he has woken up. He has awakened the giant within this institution, and now I think that our Members on both sides of the aisle are going to focus on this, and we are going to move forward.

We have a couple of different legislative directions that we can go. We are thinking about them, but we are going to sit down with friends on both sides of the aisle, and we are going to try to figure out to protect both the health and wealth of this Nation.

Mr. DOYLE. I think it is so important that we get people on H.R. 1984, and I think it is important, too. What I fear is that because it is going to be a number of years before we start to see some of these effects because there is going to be a period of installing monitors and collecting data and things like this that, we are not going to see this immediate impact. I mean I think we are going to see businesses saying, well, if they were thinking to come to western Pennsylvania, that is going to be out, and we are not going to see investments in existing plans.

But I fear the public is going to be lulled into some complacency because they do not realize what we are talking about 10 years down the road. It is not going to immediately hit them, and when it does they are going to say what happened to us and where was everybody when this was taking place?

This is not a partisan issue. Here we both stand, Democrats, talking about our own administration, our own President, our own EPA administrator, and at some political risk saying we have got to come together, Democrats and Republicans from all regions of the country, and we are seeing cosponsors now on this bill from all regions of the country and from both parties.

This is not a partisan issue.

Mr. KLINK. On that point I want to repeat again, and I do not think I can say it enough, there is no pride with which we come here and talk about the fact that our President, the party, the President of our party, has made what we think is the wrong decision because he was given bad advice and he heeded that bad advice. We do not like to do that.

There is a political risk that is involved with that. This is not something— we tried as Members; I called the White House, I talked to the legislative liaison people at the White House time and time again, firing shots across their bow, letting them know that from a western Pennsylvania perspective, from a Midwest perspective, from a northeastern United States perspective that we have no choice but to go to war on this issue and begging this administration to sit down with us and talk to us, have a dialogue with us; do not force us to come to this point.

This is a battle which was thrust upon us, a battle which we must fight for our constituents, for the working blue collar men and women, for the small businesses, for the local elect officials, for the Governors, for the people who would have to implement these new standards at great risk and no certainty that we are headed down the right road. In fact the evidence is against it.

We cannot tell you how much it is that we are distressed by having to come to the floor over the last couple of weeks and being here again tonight to in fact have a family struggle within our own party in a very public way. This is not the fight that we desire. We hoped that we could sit down as statesmen, as men and women talking with the White House, talking with our friends on the other side of the aisle and coming to some kind of a conclusion as to what was best for this country.

All of our requests, including written letters to the President, have gone unanswered, and so it is that we have been forced to come to the floor of the House, Mr. Speaker, to seek the redress here in this institution where the people of our districts have elected us to come here to protect their interests, and it is to protect that interest that we rise tonight to make a plea to you, Mr. Speaker, and to other Members of this great Chamber to join us to make sure that this country is acting based on good science, that we are acting based on what is indeed the best interests of the working people and the businesses of this Nation.

I yield to the gentleman to close.

Mr. DOYLE. I would just close by saying that in 1994, when I came to this Congress, I promised the people of western Pennsylvania, who I am so privileged to represent, that I would put their interests ahead of the interests of my party and my President, and I also say to my wife Susan and my 4 kids, if they are watching this tonight, Michael, David, Kevin, Alexandra, that I am here for you, too, and for other families in western Pennsylvania.

This is important. This is about our future. This is why we stand here tonight opposing our President and our party on a decision that is going to be so wrong for the future of our country.

I would urge Members in both parties, Republicans and Democrats, to join the gentleman from Pennsylvania [Mr. KLINK] and I myself in sponsoring H.R. 1984. Together let us turn these rules back, let us give our children a future in this country.

Mr. KLINK. Let me also just say in reclaiming my time that I think we need to give credit to two of our friends who are original cosponsors of H.R. 1994, the gentleman from Michigan, Mr. FRED UPTON, Republican, and the gentleman from Virginia, Mr. BOUCHER. They could not be here with us tonight, but this is a bipartisan effort. I am pleased to be one of the leads on this, glad to have my colleague from southwestern Pennsylvania and so many on board.

I think that we are very close to getting half of the Democrats in this House on our side on this issue. I think we have a tremendous number of Republicans.

It has to be veto proof. The President has sent us a clear message, whatever we do, whatever the legislative answer is, we have got to make it veto proof.

I think we have got some good numbers up, about 63 Members in the Senate that are hard numbers, so I think that we are headed in the right direction.

Again, we did not want to have to battle it this way; it has been thrust upon us.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PAPPAS). The Chair would remind all Members to direct their remarks to the chair and not to the television viewing audience.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. SMITH of New Jersey (at the request of Mr. ARMEY) until 1 p.m. today, on account of medical reasons.

Mr. COX of California (at the request of Mr. ARMEY) for today, on account of medical reasons.

Mr. YATES (at the request of Mr. GEPHARDT) for today, on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CAPPS) to revise and extend their remarks and include extraneous material:)

Mr. BONIOR, for 5 minutes, today.

Mr. FAZIO, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. GEJDENSON, for 5 minutes, today.

Mr. ALLEN, for 5 minutes, today.

Ms. WATERS, for 5 minutes, today.

Ms. BROWN of Florida, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Mr. PAYNE, for 5 minutes, today.

Mrs. MEEK of Florida, for 5 minutes, today.

Mr. SNYDER, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

Mr. TAYLOR, for 5 minutes, today.

Mr. STOKES, for 5 minutes, today.

Mr. OLVER, for 5 minutes, today.

(The following Members (at the request of Mr. INGLIS) to revise and extend their remarks and include extraneous material:)

Mr. EHRLICH, for 5 minutes, today.

Mr. PAPPAS, for 5 minutes, today.

Mr. NEUMANN, for 5 minutes, today.

Mr. JONES, for 5 minutes, on June 26.

Mr. DUNCAN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. CAPPS) and to include extraneous matter:)

Mr. BARRETT of Wisconsin.

Ms. LOFGREN.

Mr. ENGEL.

Mr. SHERMAN.

Mr. VENTO.

Mr. BLAGOJEVICH.

Mr. POSHARD.

Mr. HAMILTON.

Mr. FORD.

Mr. ORTIZ.

Mrs. KENNELLY of Connecticut.

Mr. SANDERS.

Mr. FRANK of Massachusetts.

Mr. PASCRELL.

Mr. SKELTON.

Mr. MALONEY of Connecticut.

Mr. GORDON.

Mrs. LOWEY.

Mr. CAPPS.

Mr. FALEOMAVAEGA.

(The following Members (at the request of Mr. INGLIS) and to include extraneous matter:)

Mr. OXLEY.

Mr. MANZULLO.

Mr. HOEKSTRA.

Mr. BILIRAKIS.

Mr. CUNNINGHAM.

Mr. MCDADE.

Mr. SAXTON.

Mr. DOOLITTLE.

Mr. FRELINGHUYSEN.

(The following Members (at the request of Mr. KLINK) and to include extraneous matter:)

Mr. RILEY, in two instances.

Mr. FALEOMAVAEGA.

Mr. FARR of California.

Mr. OWENS.

Mr. BONIOR.

Mr. MATSUI.

Mr. DEUTSCH.

Mr. HASTINGS of Washington.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House oversight, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1306. An act to amend Federal law to clarify the applicability of host State laws to any branch in such State of an out-of-State bank, and for other purposes.

H.R. 1902. An act to immunize donations made in the form of charitable gift annuities and charitable remainder trusts from the antitrust laws and State laws similar to the antitrust laws

ADJOURNMENT

Mr. KLINK. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 53 minutes p.m.), the House adjourned until tomorrow, June 26, 1997, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3943. A letter from the Acting General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—HOME Investment Partnerships Program: Technical Amendments to Final Rule [Docket No. FR-3962-F-04] (RIN: 2501-AC06) received June 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

3944. A letter from the Acting General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—The Secretary of HUD's Regulation of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac): Book-Entry Procedures [Docket No. FR-4095-F-02] (RIN: 2501-AC35) received June 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

3945. A letter from the Acting General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—Delegation of Insuring Authority to Direct Endorsement Mortgagees; Interim Rule [Docket No. FR-4169-I-01] (RIN: 2502-AC87) received June 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

3946. A letter from the Acting General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—Opportunities for Youth: Youthbuild Program Further Streamlining [Docket No. FR-4226-F-01] (RIN: 2506-AB93) received June 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

3947. A letter from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation to facilitate the effective and efficient management of the homeless assistance programs of the Department of Housing and Urban Development, including the merger of such programs into one performance fund; to the Committee on Banking and Financial Services.

3948. A letter from the Secretary of Health and Human Services, transmitting the Department's annual report on the status and

accomplishments of the runaway and homeless youth centers for fiscal year 1995, pursuant to 42 U.S.C. 5715(a); to the Committee on Education and the Workforce.

3949. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Motor Vehicle Content Labeling (National Highway Traffic Safety Administration) [Docket No. 92-64; Notice 11] (RIN: 2127-AG46) received June 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3950. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Insurer Reporting Requirements; List of Insurers Required to File Reports (National Highway Traffic Safety Administration) [Docket No. 96-130; Notice 03] (RIN: 2127-AG56) received June 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3951. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Federal-Aid Highway Systems (Federal Highway Administration) [Docket No. FHWA 97-2394] (RIN: 2125-AD74) received June 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3952. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW) (Coast Guard) [CGD 95-062] (RIN: 2115-AF26) received June 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3953. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations; Deerfield Beach, Florida (Coast Guard) [CGD07-97-027] (RIN: 2115-AE46) received June 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3954. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone; Fort Lauderdale, FL (Coast Guard) [COTP MIAMI 96-054] (RIN: 2115-AA97) received June 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3955. A letter from the Board Members, Railroad Retirement Board, transmitting a draft of proposed legislation to amend the Railroad Retirement Act and the Railroad Unemployment Insurance Act to ease administration of the railroad retirement and railroad unemployment insurance programs; to the Committee on Transportation and Infrastructure.

3956. A letter from the Secretary of Defense, transmitting the Department's annual report on Outreach Regarding Persian Gulf Illnesses; jointly to the Committees on Veterans' Affairs and National Security.

3957. A letter from the United States Trade Representative, transmitting a draft of proposed legislation to approve and implement the OECD Shipbuilding Trade Agreement; jointly to the Committees on Ways and Means and National Security.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HYDE: Committee on the Judiciary. H.R. 1086. A bill to codify without substantive change laws related to transportation and to improve the United States Code; with an amendment (Rept. 105-153). Referred to the House Calendar.

Mr. LINDER: Committee on Rules. House Resolution 176. Resolution providing for consideration of a concurrent resolution providing for adjournment of the House and Senate for the Independence Day district work period (Rept. 105-154). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BISHOP (for himself, Mr. BAESLER, Mr. BONO, Mr. BILBRAY, Mr. CAMP, Mr. CRAMER, Mrs. EMERSON, Mr. JOHN, Mr. PETERSON of Minnesota, Mr. PETERSON of Pennsylvania, Mr. PICKERING, Mr. STEARNS, Mr. SHIMKUS, and Mr. TAYLOR of Mississippi):

H.R. 2034. A bill to amend section 1926 of the Public Health Service Act to encourage States to strengthen their efforts to prevent the sale and distribution of tobacco products to individuals under the age of 18, and for other purposes; to the Committee on Commerce.

By Mr. GILMAN (for himself and Mr. HAMILTON):

H.R. 2035. A bill to authorize the transfer of naval vessels to certain foreign countries; to the Committee on International Relations.

By Mr. SHUSTER (for himself, Mr. DUNCAN, Mr. OBERSTAR, and Mr. LIPINSKI):

H.R. 2036. A bill to amend chapter 443 of title 49, United States Code, to extend the authorization of the aviation insurance program, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. SMITH of Michigan (for himself and Mr. KASICH):

H.R. 2037. A bill to amend the Congressional Budget Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985 to enforce the bipartisan budget agreement; to the Committee on the Budget, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CANADY of Florida (for himself, Mr. JENKINS, and Mr. HILLEARY):

H.R. 2038. A bill to amend the Migrant and Seasonal Agricultural Worker Protection Act to clarify the application of such act; to the Committee on Education and the Workforce.

By Mr. FALEOMAVAEGA:

H.R. 2039. A bill to take into trust for the Cheyenne-Arapaho Tribes of Oklahoma certain land in Oklahoma that was known as the Fort Reno Military Reservation and that was formerly part of the Cheyenne-Arapaho lands, and for other purposes; to the Committee on Resources.

By Mr. STUMP (for himself, Mr. EVANS, Mr. SKELTON, Mr. BACHUS, Mr. EVERETT, Mr. FILNER, Mr. QUINN, Mr. CLYBURN, and Mr. STEARNS):

H.R. 2040. A bill to amend title 38, United States Code, to deny burial in a federally funded cemetery to persons convicted of certain capital crimes; to the Committee on Veterans' Affairs.

By Mr. MATSUI:

H.R. 2041. A bill to suspend temporarily the duty on the production of anticancer drugs; to the Committee on Ways and Means.

H.R. 2042. A bill to suspend temporarily the duty on the production of anticancer drugs; to the Committee on Ways and Means.

H.R. 2043. A bill to suspend temporarily the duty on the production of anticancer drugs; to the Committee on Ways and Means.

H.R. 2044. A bill to suspend temporarily the duty on the production of anticancer drugs; to the Committee on Ways and Means.

H.R. 2045. A bill to suspend temporarily the duty on the production of anticancer drugs; to the Committee on Ways and Means.

H.R. 2046. A bill to suspend temporarily the duty on the production of anticancer drugs; to the Committee on Way and Means.

H.R. 2047. A bill to suspend temporarily the duty on the production of anti-HIV/anti-AIDS drugs; to the Committee on Ways and Means.

H.R. 2048. A bill to suspend temporarily the duty on the production of anti-HIV/anti-AIDS drugs; to the Committee on Ways and Means.

H.R. 2049. A bill to suspend temporarily the duty on the production of anticancer drugs; to the Committee on Ways and Means.

By Mr. FILNER (for himself and Mr. EVANS):

H.R. 2050. A bill to amend title 10, United States Code, to extend commissary and exchange store privileges to veterans with a service-connected disability rated at 30 percent or more and their dependents; to the Committee on National Security.

By Mr. FORD:

H.R. 2051. A bill to amend the Federal Election Campaign Act of 1971 to promote increased disclosure of spending on campaigns for election for Federal office, improve the ability of the Federal Election Commission to enforce the laws governing the financing of such campaigns, and for other purposes; to the Committee on House Oversight, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FRANK of Massachusetts:

H.R. 2052. A bill to amend the Immigration and Nationality Act with respect to cancellation of removal and waiver of exclusion for certain long-term resident aliens; to the Committee on the Judiciary.

By Mr. HINCHEY (for himself and Mr. GONZALEZ):

H.R. 2053. A bill to amend the Truth in Lending Act to prohibit the distribution of any negotiable check or other instrument with any solicitation to a consumer by a creditor to open an account under any consumer credit plan or to engage in any other credit transaction which is subject to such act, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. HINCHEY (for himself, Mr. BOEHLERT, Mr. GILMAN, and Mr. HOUGHTON):

H.R. 2054. A bill to provide for the redesignation of a portion of State Route 17 in New York and Pennsylvania as Interstate Route 86; to the Committee on Transportation and Infrastructure.

By Mr. HOEKSTRA:

H.R. 2055. A bill to permit voters to vote for "None of the Above" in elections for Federal office and to require an additional election if "None of the Above" receives the

most votes; to the Committee on House Oversight.

H.R. 2056. A bill to establish a national advisory referendum on limiting the terms of Members of Congress at the general election of 1998; to the Committee on House Oversight.

H.R. 2057. A bill to establish a national advisory referendum on a flat income tax rate, and requiring a national vote to raise taxes at the general election of 1998; to the Committee on House Oversight.

H.R. 2058. A bill to suspend temporarily the duty on phenmedipham; to the Committee on Ways and Means.

H.R. 2059. A bill to suspend temporarily the duty on ethofumesate; to the Committee on Ways and Means.

H.R. 2060. A bill to suspend temporarily the duty on desmedipham; to the Committee on Ways and Means.

H.R. 2061. A bill to provide that the voters of the United States be given the right, through advisory voter initiative, to propose the enactment and repeal of Federal laws in a national election; to the Committee on House Oversight, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LANTOS (for himself and Ms. ESHOO):

H.R. 2062. A bill to amend title 10, United States Code, to provide that certain individuals who would be eligible for military retired pay for nonregular service but for the fact that they did not serve on active duty during a period of conflict may be paid such retired pay if they served in the U.S. merchant marine during or immediately after World War II; to the Committee on National Security.

By Mrs. MALONEY of New York (for herself, Mr. HORN, Mr. SABO, Mr. SENSENBRENNER, Mr. FROST, Mr. ANDREWS, Mr. CLEMENT, Mr. ENGEL, Mr. EVANS, Mr. LEWIS of Georgia, Mr. LIPINSKI, Mr. OWENS, Mr. MANTON, Ms. RIVERS, and Mr. WYNN):

H.R. 2063. A bill to direct the Secretary of Health and Human Services to make available to the Secretary of the Treasury information from the National Directory of New Hires for use in collecting delinquent debt owed to the Federal Government, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. MANZULLO (for himself, Mr. GILMAN, Mr. GEJDENSON, Mr. HAMILTON, Mr. BEREUTER, Mr. ARCHER, Mr. BALDACCI, Mr. BENTSEN, Mr. BERMAN, Mr. BLUMENAUER, Mr. BOEHNER, Mr. BRYANT, Mr. CALLAHAN, Mr. CHRISTENSEN, Mr. DEUTSCH, Mr. DREIER, Mr. ENGLISH of Pennsylvania, Mr. EWING, Mr. FAZIO of California, Mr. FILNER, Mr. HASTERT, Mr. HASTINGS of Florida, Mr. JEFFERSON, Mrs. KENNELLY of Connecticut, Mr. KOLBE, Mr. LAHOOD, Mr. LANTOS, Mr. LIVINGSTON, Mr. MATSUI, Mr. MENENDEZ, Mr. RANGEL, Mr. ROTHMAN, Mr. SHERMAN, Mr. SHIMKUS, and Mr. TORRES):

H.R. 2064. A bill to reauthorize the Overseas Private Investment Corporation, and for other purposes; to the Committee on International Relations.

By Mrs. MORELLA (for herself and Mr. VENTO):

H.R. 2065. A bill to improve teacher mastery and use of educational technology; to the Committee on Education and the Workforce.

By Mr. OBERSTAR (for himself and Mr. WISE) (both by request):

H.R. 2066. A bill to restructure and reform the laws relating to Amtrak, and for other purposes; to the Committee on Transportation and Infrastructure.

By Ms. RIVERS:

H.R. 2067. A bill to direct the Secretary of the Treasury to incorporate certain features in the redesign of the U.S. currency so as to make such currency readily accessible to the visually impaired; to the Committee on Banking and Financial Services.

By Mr. SANDERS

H.R. 2068. A bill to provide for the establishment of a multiple-tier price support program for milk to assist milk producers to receive an adequate income from their dairy operations and to support long-term conservation practices by milk producers, while assuring sufficient low-cost dairy products for nutrition assistance programs; to the Committee on Agriculture.

By Mr. SANDERS (for himself, Mr. MCGOVERN, and Mr. LIPINSKI):

H.R. 2069. A bill to amend the Export-Import Bank Act of 1945 to ensure that firms that have shown a commitment to reinvestment and job creation in the United States are given preference in obtaining financial assistance from the Export-Import Bank of the United States; to the Committee on Banking and Financial Services.

By Mr. SOLOMON (for himself and Mr. CONDIT):

H.R. 2070. A bill to amend title 18, United States Code, to provide for the mandatory testing for serious transmissible diseases of incarcerated persons whose bodily fluids come into contact with corrections personnel and notice to those personnel of the results of the tests, and for other purposes; to the Committee on the Judiciary.

By Mr. SANDERS (for himself, Mr. EVANS, Mr. FILNER, Mr. LIPINSKI, and Mr. LEWIS of Georgia):

H.R. 2071. A bill to require the Federal Government, in procuring goods and services and in providing certain foreign trade and investment assistance relating to trade and exports, to give a preference to entities that adopt and enforce a corporate code of conduct and to provide for an annual administrative review and petition process to ensure compliance with such code; to the Committee on Government Reform and Oversight, and in addition to the Committees on International Relations, Banking and Financial Services, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOEKSTRA:

H.J. Res. 85. Joint resolution proposing an amendment to the Constitution of the United States to give citizens of the United States the right to propose amendments to the Constitution by an initiative process; to the Committee on the Judiciary.

H.J. Res. 86. Joint resolution proposing an amendment to the Constitution of the United States to give citizens of the United States the right to recall elected officials; to the Committee on the Judiciary.

H.J. Res. 87. Joint resolution proposing an amendment to the Constitution of the United States to give citizens of the United States the right to enact and repeal laws by voting on legislation in a national election; to the Committee on the Judiciary.

By Mr. GILCHREST (for himself, Mr. WAXMAN, Mr. EHLERS, Mrs. LOWEY, Mr. PORTER, Ms. MCCARTHY of Missouri, Mr. BOEHLERT, Ms. RIVERS, Mr. GILMAN, Mr. BROWN of California, Mrs. MORELLA, and Mr. MILLER of California):

H. Con. Res. 106. Concurrent resolution expressing the sense of the Congress regarding the negotiation of an international climate change agreement; to the Committee on International Relations.

By Mr. MCDADE:

H. Con. Res. 107. Concurrent resolution expressing the sense of the Congress that Little League Baseball Inc. was established to support and develop Little League baseball worldwide and should be entitled to all of the benefits and privileges available to nongovernmental international organizations; to the Committee on International Relations.

By Mr. ROYCE (for himself, Mr. HOUGHTON, Mr. PAYNE, and Mr. CHABOT):

H. Res. 175. Resolution expressing concern over the outbreak of violence in the Republic of Congo and the resulting threat to scheduled elections and constitutional government in that country; to the Committee on International Relations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

139. The SPEAKER presented a memorial of the House of Representatives of the State of Ohio, relative to House Concurrent Resolution No. 13 memorializing Congress to examine the financial problems of self-employed and other reservists who were called to active duty in Operation Desert Storm and to pass legislation to provide relief; to the Committee on National Security.

140. Also, a memorial of the Legislature of the Territory of Guam, relative to Resolution No. 88 requesting Guam's Delegate to Congress, Congressman Robert A. Underwood, to petition the United States Congress to expeditiously amend the Organic Act of Guam to enact the critical requirement of being free from felony convictions for the posts of Governor and Lieutenant Governor of Guam; to the Committee on Resources.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 15: Mr. TORRES and Mr. CRAMER.

H.R. 66: Mr. DAVIS of Illinois.

H.R. 96: Mr. PASCRELL.

H.R. 127: Mr. MANZULLO.

H.R. 198: Mrs. NORTHUP.

H.R. 297: Mr. JEFFERSON.

H.R. 301: Mr. JEFFERSON.

H.R. 373: Mr. JEFFERSON.

H.R. 383: Mr. DICKS.

H.R. 632: Mr. SOUDER, Mr. MINGE, Mr. BARRETT of Nebraska, Mr. LEWIS of Kentucky, Ms. RIVERS, Mr. HILL, and Mr. WATKINS.

H.R. 681: Mr. BECERRA.

H.R. 695: Mr. CRAPO, Mr. ROGAN, and Mr. ANDREWS.

H.R. 716: Mr. HALL of Texas, Mr. WALSH, and Mr. TRAFICANT.

H.R. 741: Mr. HILL

H.R. 758: Mr. FOX of Pennsylvania, Mr. LATHAM, Mr. BAKER, and Mr. HUNTER.

H.R. 777: Mr. TOWNS, Ms. MILLENDER-MCDONALD, Mr. JEFFERSON, Mr. CLYBURN,

Mr. KLINK, Mr. GUTIERREZ, Mr. BROWN of California, Mr. GREEN, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. HASTINGS of Florida.

H.R. 784: Ms. CARSON.

H.R. 795: Mr. DELLUMS, Mr. FILNER, and Mr. BONIOR.

H.R. 836: Mr. BILBRAY, Mr. BISHOP, Mr. BROWN of Ohio, Mr. CALVERT, Mrs. CLAYTON, Mr. CLYBURN, Mr. CONYERS, Mr. COYNE, Mr. DELLUMS, Mr. DIXON, Ms. DUNN of Washington, Mr. ENGEL, Mr. FOGLIETTA, Ms. FURSE, Mr. GREEN, Mr. GUTIERREZ, Mr. HASTINGS of Florida, Mr. HILLIARD, Mr. HORN, Mr. JEFFERSON, Mr. KENNEDY of Massachusetts, Mr. KENNEDY of Rhode Island, Mr. MARTINEZ, Mr. MCKEON, Mr. MOAKLEY, Ms. NORTON, Mr. PALLONE, Mr. PASTOR, Mr. RAHALL, Mr. ROMERO-BARCELÓ, Ms. ROYBAL-ALLARD, Mr. SANDERS, Mr. SERRANO, Mr. SOLOMON, Mr. STARK, Mr. STEARNS, Mr. STOKES, Mr. TOWNS, Mr. BARRETT of Wisconsin, Mr. BONIOR, Ms. BROWN of Florida, Mr. BROWN of California, Mr. CAPPS, Mr. FLAKE, Mr. GONZALEZ, Ms. HARMAN, Ms. KAPTUR, Mr. KIM, Mr. LEWIS of Georgia, Mr. PAYNE, Mr. RANGEL, Ms. WOOLSEY, Mr. CUMMINGS, Mr. JACKSON, Mr. FORD, Mr. REYES, Mr. TURNER, Mr. NEAL of Massachusetts, Ms. VELÁZQUEZ, Mr. WATT of North Carolina, Mr. WAXMAN, Mr. YATES, Mr. MARKEY, Mr. LEVIN, and Mrs. MCCARTHY of New York.

H.R. 885: Mr. FRANK of Massachusetts.

H.R. 886: Mr. FRANK of Massachusetts.

H.R. 888: Mr. FRANK of Massachusetts.

H.R. 907: Mr. DICKEY.

H.R. 920: Ms. VELÁZQUEZ.

H.R. 921: Mrs. THURMAN, Mr. DELLUMS, and Mr. FORD.

H.R. 934: Mr. COOKSEY and Mr. COLLINS.

H.R. 953: Mr. BROWN of Ohio.

H.R. 955: Mr. NEUMANN, Mr. COOK, and Mr. FORBES.

H.R. 1002: Mr. COOKSEY.

H.R. 1043: Mr. DOOLEY of California, Ms. WOOLSEY, and Mr. MCINTYRE.

H.R. 1061: Mr. MCGOVERN and Mr. HALL of Ohio.

H.R. 1174: Mr. OXLEY, Mr. BATEMAN, Mr. LANTOS, Ms. PRYCE of Ohio, Mr. RIGGS, Mr. HALL of Ohio, Mr. GREENWOOD, Mr. BLAGOJEVICH, Mr. BARCIA of Michigan, Mr. BOUCHER, Mr. BOEHLERT, Mr. HYDE, Mr. JACKSON, Mr. KIND of Wisconsin, Mr. SHIMKUS, Mr. BACHUS, and Mr. MCINNIS.

H.R. 1215: Mr. MARKEY and Mr. MOAKLEY.

H.R. 1270: Mr. GALLEGLY, Mr. POMEROY, Mr. BARR of Georgia, and Mr. PETERSON of Minnesota.

H.R. 1284: Mrs. KELLY.

H.R. 1290: Mr. SAXTON and Mr. TAUZIN.

H.R. 1300: Mr. MCHUGH.

H.R. 1329: Mr. FRANK of Massachusetts and Mr. WATT of North Carolina.

H.R. 1353: Mr. ENGEL.

H.R. 1367: Mr. BLAGOJEVICH and Mr. TOWNS.

H.R. 1373: Mr. JEFFERSON and Ms. DEGETTE.

H.R. 1382: Mr. NADLER.

H.R. 1383: Mr. BISHOP, Mr. FORD, Mr. JEFFERSON, and Mr. WYNN.

H.R. 1415: Mr. ROEMER, Mr. GILCHREST, Mr. KILDEE, Mr. CALLAHAN, Mr. GIBBONS, Mr. REYES, Mr. EHLERS, and Mr. LAFALCE.

H.R. 1437: Mr. BURTON of Indiana, Mr. EVANS, and Mr. TOWNS.

H.R. 1468: Mr. ACKERMAN and Mr. MARTINEZ.

H.R. 1480: Mr. SHAYS.

H.R. 1507: Mr. GREEN, Ms. MILLENDER-MCDONALD, Mr. MCNULTY, Ms. WOOLSEY, Mr. CLEMENT, Mr. HINOJOSA, Ms. RIVERS, Mr. LANTOS, and Mr. DAVIS of Virginia.

H.R. 1515: Mr. SHAW.

H.R. 1529: Mr. FORD.

H.R. 1538: Mr. RAMSTAD.

H.R. 1578: Mr. CASTLE.

H.R. 1579: Mr. CASTLE.

H.R. 1648: Mr. WATTS of Oklahoma, Mr. LUCAS of Oklahoma, Mr. ISTOOK, Mr. SANDLIN, and Mr. FROST.

H.R. 1689: Mr. STRICKLAND and Mr. BOUCHER.

H.R. 1773: Mr. NORWOOD.

H.R. 1782: Ms. LOFGREN.

H.R. 1813: Mr. UNDERWOOD, Ms. NORTON, Mr. HINCHEY, Mr. CAMPBELL, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. LOFGREN, Mr. PETERSON of Minnesota, Mrs. THURMAN, Mr. FORD, Mr. DELLUMS, and Ms. SLAUGHTER.

H.R. 1824: Ms. KILPATRICK, Mr. CLAY, Mr. DIXON, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 1842: Mrs. CUBIN, Mr. STUMP, and Mr. HAYWORTH.

H.R. 1863: Mr. GOODLING.

H.R. 1883: Mr. HORN and Mrs. TAUSCHER.

H.R. 1908: Mr. BARRETT of Wisconsin.

H. Con. Res. 13: Mr. FORD, Mr. SKAGGS, and Mrs. TAUSCHER.

H. Con. Res. 38: Mr. MANTON.

H. Con. Res. 52: Mr. ROTHMAN and Mr. TAYLOR of North Carolina.

H. Con. Res. 65: Mr. SKAGGS, Ms. SLAUGHTER, Mr. DIXON, and Mr. ROMERO-BARCELO.

H. Con. Res. 75: Mr. BLAGOJEVICH.

H. Res. 83: Mrs. MINK of Hawaii.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1636: Mr. BAESLER.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

19. The SPEAKER presented a petition of the New Jersey State Federation of Women's Clubs, relative to two Resolutions which were adopted by the New Jersey State Federation of Women's Clubs at their annual Convention, May, 1997; jointly to the Committees on International Relations and Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1775

OFFERED BY: MR. SANDERS

AMENDMENT NO. 1: At the end of title I, add the following new section:

SEC. 105. LIMITATION ON AMOUNTS AUTHORIZED TO BE APPROPRIATED.

(a) LIMITATION.—Except as provided in subsection (b), notwithstanding the total amount of the individual authorizations of appropriations contained in this Act, including the amounts specified in the classified Schedule of Authorizations referred to in section 102, there is authorized to be appropriated for fiscal year 1998 to carry out this Act not more than 90 percent of the total amount authorized to be appropriated by the Intelligence Authorization Act for Fiscal Year 1997.

(b) EXCEPTION.—Subsection (a) does not apply to amounts authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund by section 201.

SENATE—*Wednesday, June 25, 1997*

The Senate met at 9:20 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

God of hope, You have shown us that authentic hope always is rooted in Your faithfulness in keeping Your promises. We hear Your assurance, "Be not afraid, I am with you." We place our hope in Your problem-solving power, Your conflict-resolving presence, and Your anxiety-dissolving peace.

Lord, You have helped us discover the liberating power of an unreserved commitment to You. When we commit to You our lives and each of the challenges we face, we are not only released from the tension of living on our own limited resources, but a mysterious movement of Your providence begins. The company of heaven, plus people and circumstances begin to rally to our aid. Unexpected resources are released; unexplainable good things start happening. We claim the promise of Psalm 37:5,7 "Commit your way to the Lord, trust also in Him, and He will bring it to pass." In the name of our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator STEVENS of Alaska, is recognized.

SCHEDULE

Mr. STEVENS. Thank you, Mr. President pro tempore. I have a message here from the majority leader.

For the information of all Senators, this morning, following remarks that I will make, the Senate will resume consideration of the reconciliation bill. At approximately 9:30 a.m. this morning the Senate will proceed to a series of back-to-back rollcall votes on or in relation to a number of amendments which were offered last evening, alternating between each side of the aisle and ending with the final passage of the Balanced Budget Act. Also, by consent, there will be 2 minutes of debate equally divided on each amendment prior to each vote. Therefore, Senators can expect a lengthy series of back-to-back rollcall votes as the Senate disposes of all amendments in order to the budget reconciliation bill.

Following final passage, the Senate is expected to proceed to consideration of S. 949, the Tax Fairness Act. As previously announced, all Members may expect busy sessions of the Senate the next couple of days as the Senate works to complete action on the budget reconciliation process prior to the Fourth of July recess.

THE RETIREMENT OF ROBERT J. OPINSKY

Mr. STEVENS. Mr. President, after a distinguished 40-year career with the U.S. Postal Service and its predecessor the Post Office Department, my good friend Robert J. Opinsky is retiring.

Bob traveled to Alaska in 1956 for a summer vacation. By the time the vacation was over, Bob was ready to become a full-time Alaskan.

He began working with the Post Office Department in Anchorage that year in 1956. By 1970, having served in almost every capacity at the Post Office, he was named Anchorage Postmaster.

When the Anchorage Division was created in 1986, Bob became Division Manager. He was the top Postal Service official in our state, responsible for the delivery and retail operations of all 209 post offices in Alaska.

There have been tremendous challenges during Bob's career, and he's met them with his characteristic quiet efficiency.

One example is how he managed to keep the mail flowing after Alaska's 1964 earthquake, which I remind the Senate measured 9.2 on the Richter scale.

Bob was foreman of delivery and collection at that time.

He worked around the clock and kept the mail moving, even though much of what we call southcentral Alaska was brought to its knees by the disaster.

As our population increased after North Slope oil was discovered and production began, Bob led a team which built and updated more than 50 post offices in a hurry to keep up with the growing number of Alaskans.

In his quiet manner, Bob made sure the task was accomplished quickly and efficiently.

Bob has also ensured that distinguished postal officials learn about Alaska.

Hosting several Postmasters General, the entire Postal Service Board of Governors and members of the Postal Rate Commission on their visits to Alaska, Bob has given them a firsthand view of the beauty of our State, and also an awareness of our unique problems.

I have traveled with Bob to postal functions all over our State: post office dedications, stamp ceremonies, or town meetings to discuss new facilities.

Everywhere we have gone together, it has been obvious how well-liked and respected Bob Opinsky is. He is an Alaskan's Alaskan, with a real can-do spirit.

While working his way up the ladder at the Post Office, Bob put himself through college. He worked hard to become the best manager in the Postal Service, and he has succeeded.

Many awards have come his way over four decades, but perhaps the recognition he most treasures is the Postmaster General Award for Executive Achievement, presented to him in 1991 by Postmaster General Tony Frank.

Bob is married to a lifelong Alaskan, the former Edith Jordet—Edie to many of our friends. They have raised three great children, William, John, and Celine.

Bob's Opinsky's kindness is legendary. His knowledge of the Postal Service is absolutely incredible. His gentleness has earned him the special respect of coworkers, neighbors, and friends. His unassuming demeanor masks a true competitor—a man who works to make sure that he and his people are at the top.

Retirement may mean that Bob's golf game may get a little better, and that he and Edie may have a chance to seek some sunshine during the winter months.

Best of all for me, Mr. President, Bob is my friend. Retirement won't change that.

On behalf of all Alaskans, whose lives have been enriched through the great postal services Bob has ensured for them through the years, I commend Bob Opinsky for a job well done, and wish him well as he explores new horizons.

I thank the Chair and yield back any time I might have.

BALANCED BUDGET ACT OF 1997

The PRESIDING OFFICER (Mr. ENZI). The Senate will now resume consideration of S. 947, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 947) to provide for reconciliation pursuant to section 104(a) of the concurrent resolution on the budget for the fiscal year 1998.

The Senate resumed the consideration of the bill.

Pending:

Harkin amendment No. 428, to reduce health care fraud, waste, and abuse

Gramm amendment No. 444, to provide waiver authority for penalties relating to failure to satisfy minimum participation rate.

Reed amendment No. 445, in the nature of a substitute.

Hutchison amendment No. 447, to modify the reductions for disproportionate share hospital payments.

Chafee/Rockefeller/Jeffords amendment No. 448, to clarify the standard benefits package and the cost-sharing requirements for the children's health initiative.

Durbin/Wellstone amendment No. 450, to provide food stamp benefits to child immigrants.

D'Amato/Harkin amendment No. 451, to improve health care quality and reduce health care costs by establishing a National Fund for Health Research.

Domenici (for Murkowski) amendment No. 455, to confirm Title IV, Energy Title, to the provisions of the bill, with respect to the use of underutilized Strategic Petroleum Reserve facilities.

Domenici (for Abraham/Levin) amendment No. 456, to extend the moratorium regarding HealthSource Saginaw until December 31, 2002.

Domenici (for Helms) amendment No. 458, to provide for inclusion of Stanly County, North Carolina in a large urban area under the Medicare program.

Domenici (for Helms) amendment No. 459, to provide for inclusion of Stanly County, North Carolina in a large urban area under the Medicare program.

Domenici (for McCain/Wyden) amendment No. 460, to provide for the continuation of certain State-wide medicaid waivers.

Domenici (for McCain) amendment No. 461, to provide for the treatment of certain Amerasian immigrants as refugees.

Domenici (for Jeffords) amendment No. 462, to require the Secretary of Health and Human Services to provide medicare beneficiaries with notice of the medicare cost-sharing assistance available under the medicaid program for specified low-income medicare beneficiaries.

Domenici (for Jeffords) amendment No. 463, to provide for the evaluation and quality assurance of the children's health insurance initiative.

Domenici (for Brownback) amendment No. 464, to establish procedures to ensure a balanced Federal budget by fiscal year 2002.

Domenici (for Allard) amendment No. 465, to expand medical savings accounts to families with uninsured children.

Domenici (for Chafee) amendment No. 466, to extend the authority of the Nuclear Regulatory Commission to collect fees through September 30, 2002.

Domenici (for Grassley) amendment No. 467, to preserve religious choice in long-term care.

Domenici (for Kyl) amendment No. 468, to allow medicare beneficiaries to enter into private contracts for services.

Domenici (for Specter) amendment No. 469, to extend premium protection for low-income medicare beneficiaries under the medicaid program.

Domenici (for Specter) amendment No. 470, to strike the limitations on DSH payments to institutions for mental diseases under the medicaid program.

Domenici (for Specter) amendment No. 471, to strike the limitations on Indirect Graduate Medical Education payments to teaching hospitals.

Domenici (for Burns) amendment No. 472, to provide that information contained in the National Directory of New Hires be deleted after 6 months.

Domenici (for Hutchinson) amendment No. 473, to clarify the number of individuals that may be treated as engaged in work for purposes of the mandatory work requirement for TANF block grants.

Domenici (for McCain) amendment No. 474, to provide for the extension and expansion of spectrum auction authority and to provide for the flexible use of electromagnetic spectrum.

Lautenberg amendment No. 475, to ensure that certain legal immigrants who become disabled are eligible for disability benefits.

Lautenberg (for Kerrey) amendment No. 476, to enhance taxpayer value in auctions conducted by the Federal Communications Commission.

Lautenberg (for Durbin) amendment No. 477, to provide food stamp benefits to child immigrants.

Lautenberg (for Rockefeller) amendment No. 478, to require balance billing protections for individuals enrolled in fee-for-service plans under the Medicare Choice program under part C of title XVIII of the Social Security Act.

Lautenberg (for Dodd) amendment No. 479, to provide for medicaid eligibility of disabled children who lose SSI benefits.

Lautenberg (for Murray) amendment No. 480, to clarify the family violence option under the temporary assistance to needy families program.

Lautenberg (for Dodd) amendment No. 481, to amend the provision with regard to transfer cases.

Lautenberg (for Levin) amendment No. 482, to allow vocational educational training to be counted as a work activity under the temporary assistance for needy families program for 24 months.

Lautenberg (for Wyden) amendment No. 483, to provide for the continuation of certain State-wide medicaid waivers.

Lautenberg (for Harkin) amendment No. 484, to make community action agencies, community development corporations and other non-profit organization eligible for welfare-to-work grants.

Lautenberg (for Feinstein) amendment No. 485, to provide that the hospital length of stay with respect to an individual shall be determined by the attending physician.

Lautenberg (for Feinstein) amendment No. 486, to provide additional funding for State emergency health services furnished to undocumented aliens.

Lautenberg (for Feinstein) amendment No. 487, to provide for the application of disproportionate share hospital-specific payment adjustments with respect to California.

Lautenberg (for Wellstone) amendment No. 488, to provide for actuarially sufficient reimbursement rates for providers.

Lautenberg (for Mikulski) amendment No. 489, to reinstate the requirements for provider payment rates.

Lautenberg (for Kennedy) amendment No. 490, to improve the provisions relating to the Higher Education Act of 1965.

Lautenberg (for Baucus) amendment No. 491, to prohibit cost-sharing for children in families with incomes that are less than 150 percent of the poverty line.

Lautenberg (for Kennedy) amendment No. 492, to ensure the provision of appropriate benefits for uninsured children with special needs.

Lautenberg (for Kennedy) amendment No. 493, to exempt severely disabled aliens from the ban on receipt of supplemental security income.

Lautenberg (for Conrad) amendment No. 494, to provide for medicaid eligibility of disabled children who lose SSI benefits.

Lautenberg (for Conrad) amendment No. 495, to establish a process to permit a nurse aide petition to have his or her name removed from the nurse aide registry under certain circumstances.

Lautenberg (for Kerrey) amendment No. 496, to strike the limitation on the coverage of abortions.

Lautenberg (for Kohl) amendment No. 497, to clarify that risk solvency standards established for managed care entities under the medicaid program shall not preempt any State standards that are more stringent.

Lautenberg (for Harkin) amendment No. 498, to allow funds provided under the welfare-to-work grant program to be used for the microloan demonstration program under the Small Business Act.

Domenici amendment No. 499, to provide SSI eligibility for disabled legal aliens.

Domenici (for Chafee/Rockefeller) amendment No. 500, to require that any benefits package offered under the block grant option for the children's health initiative includes hearing and vision services.

Domenici (for Chafee/Rockefeller) amendment No. 501, to require that nay benefits package offered under the block grant option for the children's health initiative includes hearing and vision services.

Roth (for D'Amato) amendment No. 502, to establish a Medicare anti-duplication provision.

Lautenberg (for Rockefeller) modified amendment No. 503, to extend premium protection for low-income medicare beneficiaries under the medicaid program.

Lautenberg (for Kennedy) amendment No. 504, to immediately transfer to part B certain home health benefits.

Roth (for Lott) amendment No. 505 (to amendment No. 448), to improve the children's health initiative.

Roth amendment No. 506, to make technical corrections and revisions.

Roth (for Lott) amendment No. 507 (to amendment No. 501), in the nature of a substitute.

Roth (for Lott) amendment No. 508 (to amendment No. 500), in the nature of a substitute.

Roth (for Lott) amendment No. 509 (to amendment No. 492), in the nature of a substitute.

Lautenberg (for Rockefeller) amendment No. 510, to require that any benefits package offered under the block grant option for the children's health initiative includes hearing and vision services.

Roth amendment No. 511, to provide a substitute for the children's health insurance initiatives.

Chafee amendment No. 512 (to amendment No. 511), to clarify the standard benefits package and the cost-sharing requirement for the children's health initiative.

Roth (for Lott) amendment No. 513 (to amendment No. 510), in the nature of a substitute.

Roth (for DeWine) amendment No. 427, to continue full-time-equivalent resident reimbursement for an additional one year under medicare for direct graduate medical education for residents enrolled in combined approved primary care medical residency training programs.

Motion to waive a point of order that Section 5822 of the bill violates section 313(b)(1)(A) of the Congressional Budget Act.

Motion to waive section 310(d) of the Congressional Budget Act with respect to consideration of Reed amendment No. 445, listed above.

Motion to waive section 305(b)(2) of the Congressional Budget Act with respect to consideration of D'Amato amendment No. 451, listed above.

The PRESIDING OFFICER. There will now be a series of votes on or in relation to the amendments not yet disposed of, in the order they were offered but alternating between parties.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum until the floor leader arrives.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. 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. STEVENS. What is the pending business, Mr. President?

AMENDMENT NO. 428

The PRESIDING OFFICER. The question is on agreeing to the Harkin amendment No. 428.

The amendment (No. 428) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 444

Mr. STEVENS. Now what is the pending business, Mr. President?

The PRESIDING OFFICER. The Gramm amendment No. 444.

Mr. STEVENS. It is my understanding there is 1 minute on each side before it is voted upon.

The PRESIDING OFFICER. That is correct, 2 minutes equally divided.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. GRAMM. We don't need the yeas and nays.

Mr. STEVENS. I withdraw that.

Mr. GRAMM. Mr. President, I will be brief. I don't think this amendment is controversial anymore. We had a technical drafting error in the welfare bill last year where, after the conference had concluded, the staff added words that, in essence, made the work requirement discretionary with the Secretary. We were going to correct it in the welfare bill. However, Senator BOB GRAHAM raised some legitimate concerns about giving flexibility for regional recessions and for natural disasters. We have corrected that in this technical amendment. I submit it to my colleagues, and I thank the Chair.

The PRESIDING OFFICER. One minute in opposition?

Mr. GRAMM. There is no opposition that we know of.

Mr. STEVENS. 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. STEVENS. 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. STEVENS. Mr. President, I am authorized to yield back the remainder of the time on the other side and ask for adoption on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 444.

The amendment (No. 444) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 445

The PRESIDING OFFICER. The question is on the Reed amendment No. 445. There is a motion to waive the Budget Act, and there is a request for the yeas and nays. There will be 1 minute for debate to a side.

Mr. STEVENS. Mr. President, Senator DOMINICI raised a budget point of order that the Reed amendment violated the Budget Act. This Reed substitute proposes to strike the Medicare age increase, means testing, copayment and adds balanced billing provisions and eliminates the medical savings accounts. The vote will occur on that point of order, is that correct?

The PRESIDING OFFICER. On the motion to waive, that is correct.

Mr. STEVENS. Is there 1 minute on the other side?

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

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

The Senator has 1 minute.

Mr. REED. Thank you, Mr. President. My amendment is simply the Finance Committee amendment with the correction of several factors: removal of the Medicare eligibility age, striking the home health care copayment, adds provisions for balanced billing, eliminates the means-testing provisions and also eliminates the medical savings accounts. This is a vote for solvency of the system, restoring those cuts necessary to maintain the system is solvent but rejecting those issues——

Mr. DOMENICI. May we have order in the Senate?

The PRESIDING OFFICER. Can we please have conversations cease so the Senator can be heard?

Mr. DOMENICI. Mr. President, I ask his 1 minute start over again. Nobody could hear because there wasn't order.

Mr. REED. I thank the Senator for his graciousness. Mr. President, my amendment would take the Finance Committee bill with its cuts to Medicare of about $115 billion and simply remove several provisions which I think jeopardize the long-term well-being and health of the Medicare system.

These provisions are: raising the age limit to 67; striking the home health care payment; it would add my amendment, the Medicare balanced billing protection; my amendment would also eliminate the provisions that means tests Medicare; and finally, it would eliminate the medical savings account.

This amendment would allow the Senate to vote for solvency of the Medicare system but not engage in some of these experiments that are in the Finance Committee bill, experiments which I think will weaken the overall system by driving healthy seniors away from Medicare and leaving the Medicare system to deal with very sick seniors, which is not a way to run a proper insurance program.

This measure, I believe, will restore solvency and allow a more comprehensive review of the Medicare system.

The PRESIDING OFFICER. All time has expired.

Mr. DOMENICI. Mr. President, I say to my fellow Senators, I raised a budget point of order that the Reed amendment violates the Budget Act. The Reed substitute proposes to undo everything we did yesterday. It proposes to strike the Medicare age increase, means testing, copayment, adds balanced billing provisions and eliminates medical savings accounts.

I ask for the yeas and nays, and I yield back whatever time I have remaining.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

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

The question is on agreeing to the motion to waive the Budget Act with respect to amendment No. 445. The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 25, nays 75, as follows:

[Rollcall Vote No. 115 Leg.]

YEAS—25

Akaka	Ford	Mikulski
Biden	Harkin	Murray
Boxer	Hollings	Reed
Byrd	Inouye	Reid
Cleland	Johnson	Rockefeller
Daschle	Kennedy	Sarbanes
Dorgan	Lautenberg	Wellstone
Durbin	Leahy	
Feingold	Levin	

NAYS—75

Abraham	Bryan	Coverdell
Allard	Bumpers	Craig
Ashcroft	Burns	D'Amato
Baucus	Campbell	DeWine
Bennett	Chafee	Dodd
Bingaman	Coats	Domenici
Bond	Cochran	Enzi
Breaux	Collins	Faircloth
Brownback	Conrad	Feinstein

Frist	Kerrey	Roberts
Glenn	Kerry	Roth
Gorton	Kohl	Santorum
Graham	Kyl	Sessions
Gramm	Landrieu	Shelby
Grams	Lieberman	Smith (NH)
Grassley	Lott	Smith (OR)
Gregg	Lugar	Snowe
Hagel	Mack	Specter
Hatch	McCain	Stevens
Helms	McConnell	Thomas
Hutchinson	Moseley-Braun	Thompson
Hutchison	Moynihan	Thurmond
Inhofe	Murkowski	Torricelli
Jeffords	Nickles	Warner
Kempthorne	Robb	Wyden

The PRESIDING OFFICER (Mr. ALLARD). On this question, the yeas are 25, the nays are 75. 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. LOTT. I move to reconsider the vote.

Mr. STEVENS. I move to table the motion.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, I ask unanimous consent the remainder of the votes in the stacked sequence including final passage be limited to 10 minutes in length.

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

Mr. DOMENICI. Mr. President, I want the Senators to know, and I am not sure they will all come up, we have 55 amendments that have been filed with numerous second degrees. We have a list here if anybody is interested. We have a few extra copies if Senators want to know what the agenda is.

What I would like to do, I say to Senator LAUTENBERG, Senator CHAFEE is negotiating and working on amendment No. 448. I would like to set it aside temporarily and move to the Durbin food stamps benefiting immigrant children.

Mr. LAUTENBERG. We have no problem with that.

The PRESIDING OFFICER. Without objection, the amendment will be laid aside.

The Senator from New Mexico.

The PRESIDING OFFICER. Without objection, the Hutchison amendment is laid aside.

AMENDMENT NO. 450

The PRESIDING OFFICER. The question now is on amendment No. 450.

Mr. DOMENICI. Mr. President, I make a point of order that the Durbin amendment is not germane.

Mr. BREAUX. I have a unanimous consent. I ask unanimous consent Michelle Prejean, a member of my staff, be allowed floor privileges today.

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

Mr. DOMENICI. I make a point of order that the Durbin amendment No. 450 is out of order, is not germane.

Mr. DURBIN. Mr. President, I object to that.

First, I make a unanimous-consent request.

Mr. President, I ask unanimous consent that Anne Marie Murphy be allowed privileges of the floor during the debate.

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

Is the Senator from Illinois moving to waive?

Mr. DURBIN. Mr. President, I am moving to waive the provisions of the Budget Act for consideration of this amendment, and I ask for the yeas and nays after the debate on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

There are 2 minutes equally divided. The Senator from Illinois.

Mr. DURBIN. Mr. President, I might say to my colleagues in the Senate this amendment seeks to right a wrong. It seeks to provide food stamp coverage for the children of legal immigrants to the United States. The welfare reform bill cut off food stamp protection for children—deserving qualified children—and really relegated over 200,000 children across the United States into a position where they do not have adequate nutrition.

It does not do our Nation a bit of good to deny these children food at a moment in their lives when it is important to their development. These kids are likely to become American citizens. They are likely to be our neighbors. They are likely to be our future workers.

Let us resolve that although we are trying to eradicate welfare as we know it, we will not take it out on the kids. The money that is used to pay for the food stamps for the children of these legal immigrants is an offset that comes from the administrative costs sent to the States. This is money that should be dedicated for the better purpose of feeding hungry, deserving children.

I ask my friends, regardless of your position on welfare reform, to make sure that we are dedicated in America to healthy children, not hungry children. I hope you will consider voting to waive the provisions of the Budget Act and approval of this amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the agreement that was put together with the President contains some food stamp changes. They have been adopted by the committees. We have never agreed on this one. In fact, it was not even brought up by the administration.

This amendment amends the welfare reform bill of last year by requiring food stamp benefits to child immigrants, paid for with State administrative moneys.

I yield remaining time on our side.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion of Senator DURBIN to waive the Budget Act for the consideration of amendment No. 450.

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 yeas and nays resulted—yeas 48, nays 52, as follows:

[Rollcall Vote No. 116 Leg.]

YEAS—48

Akaka	Durbin	Leahy
Baucus	Feingold	Levin
Biden	Feinstein	Lieberman
Bingaman	Ford	Mikulski
Boxer	Glenn	Moseley-Braun
Breaux	Graham	Murray
Bryan	Harkin	Reed
Bumpers	Hollings	Reid
Chafee	Inouye	Robb
Cleland	Johnson	Rockefeller
Collins	Kennedy	Sarbanes
Conrad	Kerrey	Snowe
D'Amato	Kerry	Specter
Daschle	Kohl	Torricelli
Dodd	Landrieu	Wellstone
Dorgan	Lautenberg	Wyden

NAYS—52

Abraham	Gorton	McConnell
Allard	Gramm	Moynihan
Ashcroft	Grams	Murkowski
Bennett	Grassley	Nickles
Bond	Gregg	Roberts
Brownback	Hagel	Roth
Burns	Hatch	Santorum
Byrd	Helms	Sessions
Campbell	Hutchinson	Shelby
Coats	Hutchison	Smith (NH)
Cochran	Inhofe	Smith (OR)
Coverdell	Jeffords	Stevens
Craig	Kempthorne	Thomas
DeWine	Kyl	Thompson
Domenici	Lott	Thurmond
Enzi	Lugar	Warner
Faircloth	Mack	
Frist	McCain	

The PRESIDING OFFICER. On this vote the yeas are 48, the nays are 52.

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. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The question before us now is the D'Amato-Harkin amendment. There will be 2 minutes of debate, equally divided.

Mr. DOMENICI. Mr. President, will Senator D'AMATO yield for a moment?

Mr. D'AMATO. Yes.

AMENDMENT NO. 476, AS MODIFIED

Mr. DOMENICI. We would like to move to amendment No. 476, the Kerrey amendment, because we are going to accept that. We like to do that from time to time.

I yield the floor.

The PRESIDING OFFICER. Without objection, we will move to the Kerrey amendment.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. This amendment deals with FCC auctions of spectrum. They

had an action about a month ago where they auctioned off spectrum for about a dollar. Some of these spectrums went for that. This amendment establishes that the FCC shall have a floor, and the suggestion was that we modify it.

I ask unanimous consent that this amendment be modified to allow the FCC to establish a floor, unless it is in the national interest not to.

The PRESIDING OFFICER. Is there any objection?

Without objection, the amendment is so modified.

The amendment (No. 476), as modified, is as follows:

At the appropriate place in the bill insert the following:

SEC. . RESERVE PRICE.

In any auction conducted or supervised by the Federal Communications Commission (hereinafter the Commission) for any license, permit or right which has value, a reasonable reserve price shall be set by the Commission for each unit in the auction, unless the Commission determines it not to be in the public interest. The reserve price shall establish a minimum bid for the unit to be auctioned. If no bid is received above the reserve price for a unit, the unit shall be retained. The Commission shall re-assess the reserve price for that unit and place the unit in the next scheduled or next appropriate auction.

Mr. DOMENICI. We have no objection. It is cleared by the Commerce Committee on both sides.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 476), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 451

Mr. DOMENICI. Now we can return to the D'Amato amendment.

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

Mr. D'AMATO. Mr. President on behalf of Senator HARKIN, myself, Senators MACK, JEFFORDS, SPECTER, and ROCKEFELLER, we offer an amendment that will fulfill this Chamber's commitment, a commitment that it made on January 21 when it voted 89–0 to double the amount of funding for the National Institutes of Health to provide medical research. Everybody says we need more money for cancer research, heart research, and for Alzheimer's and diabetes. We say we are going to do it and we never do it.

This amendment says that any excessive funds that are saved, over and above that anticipated by this budget resolution, by Medicare and Medicaid, certified by the CBO, will then be utilized to meet these functions. Only after CBO has certified that there are excess savings will those savings be placed in this account.

Mr. President, that is keeping our commitment.

Mr. HARKIN. Mr. President, are there 10 seconds left?

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Could we have order, please?

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, this amendment, I regret to say, should be defeated. It creates a new overbudget trust fund for medical research. It is based on estimates. The biggest argument against it is if we save more money in Medicare than we expect under the budget agreement, it ought to go to Medicare. It ought not go to be used in an appropriated account.

Essentially, this says, if we save more money than was agreed upon by the White House and the Congress in Medicare, the extra money goes to a trust fund for NIH. I believe it ought to stay right where it is and be used by the Finance Committee for Medicare and other purposes.

I make a point of order that the amendment is not germane.

Mr. D'AMATO. I move to waive.

The PRESIDING OFFICER. The point of order has already been made.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act in relation to the D'Amato amendment No. 451. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislation clerk proceeded to call the roll.

The yeas and nays resulted—yeas 46, nays 54, as follows:

[Rollcall Vote No. 117 Leg.]

YEAS—46

Akaka	Harkin	Murkowski
Biden	Hollings	Murray
Boxer	Inouye	Reed
Breaux	Jeffords	Reid
Cleland	Johnson	Robb
Conrad	Kennedy	Rockefeller
D'Amato	Kerry	Sarbanes
Daschle	Kohl	Specter
DeWine	Landrieu	Stevens
Dorgan	Lautenberg	Thurmond
Durbin	Leahy	Torricelli
Faircloth	Levin	Warner
Feinstein	Lieberman	Wellstone
Ford	Mack	Wyden
Graham	Moseley-Braun	
Grassley	Moynihan	

NAYS—54

Abraham	Craig	Kerrey
Allard	Dodd	Kyl
Ashcroft	Domenici	Lott
Baucus	Enzi	Lugar
Bennett	Feingold	McCain
Bingaman	Frist	McConnell
Bond	Glenn	Mikulski
Brownback	Gorton	Nickles
Bryan	Gramm	Roberts
Bumpers	Grams	Roth
Burns	Gregg	Santorum
Byrd	Hagel	Sessions
Campbell	Hatch	Shelby
Chafee	Helms	Smith (NH)
Coats	Hutchinson	Smith (OR)
Cochran	Hutchison	Snowe
Collins	Inhofe	Thomas
Coverdell	Kempthorne	Thompson

The PRESIDING OFFICER. On this vote, the yeas are 46, 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.

The question is on agreeing to the Murkowski amendment No. 455.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I would ask on behalf of Senator AKAKA, who wants to discuss it with us, that the Murkowski amendment be set aside and we proceed to the Abraham-Levin amendment, which will be a voice vote.

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

AMENDMENT NO. 456

The PRESIDING OFFICER. The question before the Senate now is on agreeing to the Abraham-Levin amendment No. 456.

The amendment (No. 456) was agreed to.

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

The PRESIDING OFFICER. The question now is on agreeing to the Helms amendment No. 459, 1 minute equally divided.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

The Senate will please come to order.

The Chair now recognizes the Senator from New Mexico.

Mr. DOMENICI. Could I have a quorum for just 2 minutes.

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.

AMENDMENT NO. 455

Mr. DOMENICI. Mr. President, I believe we are ready to go to the Murkowski amendment No. 455, which will be accepted.

The PRESIDING OFFICER. Without objection.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. With reluctance, I ask support of this amendment, and obviously it has been done. But I want to make the point that the provision in the current bill is one that we have all committed to, and that is of having the strategic petroleum reserve and the reality that we are addressing it with the crisis on the budget. That is not the purpose. The Akaka amendment provided a purchase mechanism after 2002.

I think it is the right policy for this Nation, and we are only talking about $13 million a year. I think that is a small price to pay for energy security, but nevertheless recognizing the circumstances, why, I reluctantly ask support.

Mr. DOMENICI. We have no objection to the amendment.

Mr. MURKOWSKI. I thank Senator AKAKA for his role in encouraging the support of the strategic petroleum reserve.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

The Senate will please come to order. The Senator from Hawaii.

Mr. AKAKA. According to the Energy Committee, in the reconciliation proposal, this was supposed to be for 5 years. The committee is now recommending that it be extended to 10 years. My reason for keeping it at 5 years would be to have the other 5 years to be used for purchasing excess oil, and for that reason I am opposing this. But I am not objecting to it because Chairman MURKOWSKI is supporting this.

The PRESIDING OFFICER. The question is on agreeing to the amendment. Without objection, the amendment is agreed to.

The amendment (No. 455) was agreed to.

Mr. DOMENICI. 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.

AMENDMENT NO. 459 WITHDRAWN

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I, in behalf of Senator HELMS, withdraw amendment No. 459.

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

The amendment (No. 459) was withdrawn.

Mr. DOMENICI. Now, I believe, according to the regular order, the Lautenberg amendment No. 475 on legal immigrants is next.

The PRESIDING OFFICER. The Senator is correct. The question before the Senate is on agreeing to the Lautenberg amendment No. 475. Time is evenly divided.

The Senator from New Mexico.

AMENDMENT NO 458

Mr. DOMENICI. Mr. President, I made a mistake. If Senator LAUTENBERG would permit me to correct it. In withdrawing the Helms amendment, I failed to then proceed to take up the amendment that he has that remains, and that is No. 458.

Could we make that in order right now?

The PRESIDING OFFICER. Without objection, amendment No. 458 is in order.

The question before the Senate is on agreeing to Helms amendment No. 458.

Mr. HELMS. Mr. President, in 1993, Stanly Memorial Hospital in Albermarle, NC, was reclassified as a rural instead of an urban hospital, resulting in a loss of $1.3 million each year in Medicare reimbursement.

Stanly County is the only county in North Carolina, and, I believe, in the Nation, that is touched by four different urban counties and two different Metropolitan Statistical Areas. SMH's primary competitors are in the adjacent large urban MSA's which include Davidson, Rowan, Cabarrus, and Union Counties.

By a purely bureaucratic decision, Stanley Memorial has been put in a position of having to compete with all of the Charlotte hospitals in recruitment of employees, managed care contracts, and doctors.

But since Stanly Memorial is not included in the Charlotte MSA, it receives 20 percent less for the very same Medicare services as delivered by competing hospitals in surrounding areas.

This amendment will correct this inequity by deeming Stanly County as part of the large urban area of Charlotte-Gastonia-Rock Hill, NC/SC.

Mr. DOMENICI. This amendment has been worked out on both sides, and it is acceptable.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 458) was agreed to.

Mr. DOMENICI. Now, under the regular order, would we return to Lautenberg 475?

The PRESIDING OFFICER. The question now before the Senate is on agreeing to the Lautenberg amendment No. 475.

Mr. DOMENICI. I need 2 minutes for a quorum to discuss this. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

The Senator will suspend. The Senate will please come to order. Senators will please carry their conversations to the cloakrooms.

The Senator from New Mexico.

AMENDMENT NO. 499 WITHDRAWN

Mr. DOMENICI. Mr. President, I withdraw my amendment No. 49 regarding the subject matter of the Lautenberg amendment. It is amendment 499, excuse me. It is 49 on our list. No. 499.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 499) was withdrawn.

AMENDMENT NO. 475

Mr. DOMENICI. We have agreed to accept the Lautenberg amendment and taking it to conference. We think it is the best way to resolve this issue which is between the two Houses and the White House. We all have different versions. And we agree to accept the amendment. I yield to him now for his minute.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I thank the Chair. I thank the chairman of the committee for accepting this.

The purpose of the amendment is very simple. It is to provide fairness for people who come to this country legally, who paid their taxes in good faith and played by the rules, and then perhaps suffer from a serious disability caused by an accident or a serious illness.

Whatever the cause, they are here at our invitation, left unable to work and unable to support themselves. And so, Mr. President, the budget agreement includes a very specific provision to ensure that these people get help. Unfortunately, the bill before us provides funding for only 1 year of these benefits. I hope we will be able to hold this amendment. It is very important. I think it establishes our attitude about those who have come here at our invitation, and we say, pay your taxes, do your work, and then we want to take them out of the protection stream.

So I hope that this amendment, which will restore them personally, will take care of it.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 475) was agreed to.

Mr. DOMENICI. 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.

AMENDMENT NO. 460

The PRESIDING OFFICER. The question is on agreeing to the McCain amendment No. 460.

Mr. DOMENICI. Could we have order?

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, this amendment allows several States to go forward with some of the most innovative work being done in health care in America—in Senator MCCAIN's State and my own, several others. This amendment is budget neutral, but in our home State of Oregon, through the Oregon Health Plan, we have been able to serve upwards of 100,000 low-income families with an innovative approach. The administration supports these efforts. It is a chance to go forward in innovative health care, a critically important issue at this time.

I hope my colleagues will support this budget-neutral measure. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Let me talk with Senator WYDEN for a minute about this. I understand from the distinguished chairman of the Finance Committee that the McCain-Wyden amendment, with reference to statewide Medicaid waivers, is in the chairman's, the

managers' amendment which will be offered and accepted. And based on that, we would ask the Senator if he would withdraw the amendment. He can leave it on the list pending the adoption of that, if he would like.

Mr. WYDEN. Mr. President, with that assurance of the chairman of the full committee, Mr. ROTH, and the chairman of the Budget Committee, Mr. DOMENICI, who have been very helpful to Mr. SMITH and myself on behalf of our State, we are very pleased with this, and with that assurance, I am pleased to withdraw the amendment at this time and look forward to voting for the managers' amendment. I yield the floor.

Mr. DOMENICI. I thank the Senator.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 460) was withdrawn.

AMENDMENT NO. 478

The PRESIDING OFFICER. The question now before the Senate is the Rockefeller amendment No. 478. Time is equally divided.

The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, pursuant to section 313 of the Congressional Budget Act, I make a point of order that section 5001, creating section 1852(a)(5)(B), section 5001 creating section 1852(k)(2), and section 5001 creating section 1854(e)(3) of the pending bill are extraneous under section 313(b)(1)(A).

The PRESIDING OFFICER. Does the Senator yield the floor? The Senator from New Mexico.

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

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

The 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 don't really understand where we are. We thought the Senator was calling up an amendment, No. 478, requiring balanced billing protection for individuals enrolled in fee-for-service plans. Did the Senator call that amendment up? That is the order, the regular order.

Mr. ROCKEFELLER. I am making a point of order against the bill.

The PRESIDING OFFICER. The Senator from West Virginia made two points of order. Those points cannot be made while an amendment is pending.

Mr. DOMENICI. Which amendment is pending, No. 478?

The PRESIDING OFFICER. The amendment is No. 478, Senator ROCKEFELLER's amendment.

Mr. DOMENICI. Will the Chair state the ruling again, please? It is hard to hear.

The PRESIDING OFFICER. Those points of order cannot be made while this amendment is pending.

Mr. ROCKEFELLER. I say to the distinguished Senator from New Mexico, in lieu, then, of a point of order I would like to make a point of order against the balanced billing portion of the FFS section of the bill.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I understand. Is what you are suggesting that you want to withdraw your amendment and in lieu thereof make a point of order?

Mr. ROCKEFELLER. The Senator is correct.

Mr. DOMENICI. Will the Senator call that to the attention of the Chair that that is what he would like to do?

On behalf of Senator ROCKEFELLER, I ask his amendment be withdrawn and it be in order for him to make a point of order.

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

The amendment (No. 478) was withdrawn.

Mr. DOMENICI. Now we need a clarification of what the point of order is.

The PRESIDING OFFICER. Would the Senator from West Virginia send the point of order to the desk?

Mr. ROCKEFELLER. It is on its way.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DOMENICI. Mr. President, I ask unanimous consent, and ask the distinguished Senator if he would accommodate us, that we set aside his point of order for just a moment and go to the next amendment while we work on it. The next amendment is going to be accepted.

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

AMENDMENT NO. 461

Mr. DOMENICI. The amendment we are going to is amendment No. 461, the McCain amendment.

Might we proceed to amendment 461? We have just received a unanimous consent to set this aside.

The PRESIDING OFFICER. Who yields time on the McCain amendment?

Mr. DOMENICI. I do.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, this is going to be accepted. This amendment will reclassify certain Amerasian immigrants as refugees to exempt them from the restrictions on receiving benefits under the welfare reform bill. It costs about $1 million and has been accepted on both sides.

Mr. LAUTENBERG. We have no objection.

Mr. BYRD. Mr. President, we cannot hear the explanation by the distinguished manager.

The PRESIDING OFFICER. The Senator is correct. The Senate be in order.

The Senator from New Jersey?

Mr. LAUTENBERG. Mr. President, I was saying we have no objection. We ought to move on, move this along.

Mr. DOMENICI. We yield any time we have.

Mr. BYRD. Mr. President, will the distinguished Senator repeat the statement? There is so much noise and confusion that I for one could not understand what Senator DOMENICI was saying.

Mr. DOMENICI. This McCain amendment would reclassify certain Amerasian immigrants as refugees. Thus, they would be entitled to benefits of people similarly situated. The amendment costs about $1 million per year, and those on our side who handle these matters have indicated they are willing to accept it. I understand the minority is willing to accept it.

Mr. LAUTENBERG. We have no objection.

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

The amendment (No. 461) was agreed to.

Mr. DOMENICI. 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.

AMENDMENT NO. 479

The PRESIDING OFFICER. The question occurs on the Dodd amendment, No. 479. The Senator from Connecticut.

Mr. DODD. Mr. President, I hope this amendment will be agreed to. This is an amendment I think all of our colleagues can support. I am offering it on behalf of myself and the Senator from North Dakota, Senator CONRAD. It will preserve the Medicaid coverage for some 30,000 children who, if we do nothing else, are going to lose it. These are the most severe disabled children in the country. This was a slip, more than anything else, I think, when we passed the welfare reform law last year. We learned these children might lose their Medicaid coverage as a consequence of losing their SSI. Since then there has been a broad agreement we should step in and try to preserve health care for the most needy of all children. In fact, the bipartisan budget agreement called for continued Medicaid coverage for these children. So, this amendment merely plugs that gap that we had all agreed on. It simply honors the agreement. Its cost is modest. It is about $100 million over 5 years.

I can argue if we can find $16 billion to provide insurance for kids who lack

it, surely we could set aside a fraction of that to provide insurance for children who stand to lose it. That is what we are faced with. If we do not do this, these 30,000 severely disabled children would be cut off.

Mr. LAUTENBERG. Mr. President, I rise in support of this amendment to restore Medicaid coverage for children who were removed from the SSI rolls in last year's welfare bill.

Mr. President, last year's welfare bill significantly restricted the types of disabilities that enable a child to qualify for the Supplemental Security Income Program. In some cases, the same disability that will qualify an adult for SSI now will be insufficient to quality a child. Among the children most likely to lose benefits are those who suffer from multiple problems, no one of which is severe enough to meet the more restrictive legal criteria, but the combined effect of which is substantial.

The Social Security Administration estimates that 135,000 low-income disabled children will be removed from the SSI as a result of the new law. Others put the number much higher.

In any case, since SSI eligibility is linked to Medicaid eligibility, many of these children will be terminated from the Medicaid Program, unless they qualify on other grounds. The administration believes that, in the end, about 30,000 disabled children from low income families will lose Medicaid coverage.

Mr. President, the loss of Medicaid coverage is likely to create serious problems for these families. Private insurance will be very difficult to find And even it it's available, the costs will reflect the conditions that these children have.

Compounding matters, these families also will be suffering large income losses because of the loss of their children's SSI benefits.

Mr. President, these families had low incomes even before these benefits were withdrawn. And now they are facing severe financial hardships. Allowing these to keep Medicaid coverage is the right thing to do. Otherwise, we are likely to see even more children become uninsured.

Mr. President, one of the core principles of the bipartisan budget agreement was to provide health care coverage for as many as 5 million uninsured children. And it was my understanding that the budget negotiators agreed to restore Medicaid for these roughly 30,000 SSI kids. Not as part of the $16 billion child health initiative, but as a separate, binding commitment. That is clearly the understanding of the administration, as well.

Unfortunately, Mr. President, Senator DOMENICI has a different recollection of what was agreed to, and I know he holds that view in good faith. So we have an honest disagreement.

But regardless of whose recollection is more accurate, Mr. President, I would urge my colleagues to protect these vulnerable children and their families.

Mr. President, I know that Senators on both sides of the aisle share a commitment to covering all of America's children. And so I hope that this amendment will win broad support.

Keep in mind that that these children don't just come from low-income families. They are disabled, even though they don't meet the new eligibility standards for SSI. And many of them will be become completely uninsured if we do not correct this problem.

I also want to make sure that Senators understand that this amendment would not restore any SSI benefits. All it would do is restore Medicaid coverage for these children. But that would greatly ease the hardships facing many of these families, and reduce the number of children who otherwise would join the ranks of the uninsured.

So, Mr. President, I hope my colleagues will stand with these 30,000 disabled children and their families, and will support this amendment.

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

Mr. DOMENICI. Mr. President, first of all let me say it is the position of the committee of jurisdiction that these children are covered under the $16 billion child care provisions of the bill. Since that is the case, I first would ask the Senator if he would like to withdraw the amendment and confirm that. If not, I would make a point of order against the amendment and he would have to get 60 votes to pass it.

Mr. DODD. I realize we are running out of time. Let me, on the Senator's time—I raised this earlier, I say to the distinguished chairman of the Budget Committee. We are not convinced that is the case. I understood that was the argument made to me and that has not been confirmed. So we are running the risk here, if it is not the case. I would rather adopt the amendment. If it turns out it is OK, then we protected these children. If you do not do it, it's not part of the $16 billion, 30,000 disabled children lose their Medicaid benefits. We have to do it by law, and I would rather err on that side than err on the other side.

Mr. DOMENICI. I do greatly respect the Senator. I respect all Senators. But we really are operating on a 1-minute rule for each side. I think if we are going to speak longer we ought to get consent of the Senate to do that, and I do not address that just to Senator DODD.

We contend they are covered. I make a point of order under section 310 of the Budget Act.

Mr. DODD. I move to waive that.

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.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act, section 310. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The yeas and nays resulted—yeas 49, nays 51, as follows:

[Rollcall Vote No. 118 Leg.]

YEAS—49

Akaka	Feingold	Levin
Baucus	Feinstein	Lieberman
Biden	Ford	Mikulski
Bingaman	Glenn	Moseley-Braun
Boxer	Graham	Moynihan
Breaux	Harkin	Murray
Bryan	Hollings	Reed
Bumpers	Inouye	Reid
Campbell	Jeffords	Robb
Chafee	Johnson	Rockefeller
Cleland	Kennedy	Sarbanes
Conrad	Kerrey	Specter
D'Amato	Kerry	Torricelli
Daschle	Kohl	Wellstone
Dodd	Landrieu	Wyden
Dorgan	Lautenberg	
Durbin	Leahy	

NAYS—51

Abraham	Frist	McCain
Allard	Gorton	McConnell
Ashcroft	Gramm	Murkowski
Bennett	Grams	Nickles
Bond	Grassley	Roberts
Brownback	Gregg	Roth
Burns	Hagel	Santorum
Byrd	Hatch	Sessions
Coats	Helms	Shelby
Cochran	Hutchinson	Smith (NH)
Collins	Hutchison	Smith (OR)
Coverdell	Inhofe	Snowe
Craig	Kempthorne	Stevens
DeWine	Kyl	Thomas
Domenici	Lott	Thompson
Enzi	Lugar	Thurmond
Faircloth	Mack	Warner

The PRESIDING OFFICER. On this vote, the yeas are 49, the nays are 51. 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. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. May I have the attention of the Senate for just a moment?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from New Mexico.

Mr. DOMENICI. Could I ask the clerk, how long have we been taking in terms of time on the rollcalls on the amendments?

The PRESIDING OFFICER. Votes are taking approximately 15 minutes.

Mr. DOMENICI. We are on 10-minute rollcall votes, I say to the Senators. The longer we take for these, the longer we go into the evening tonight. I really urge you to do your best to get here quickly so we can wrap them up in 10 minutes. I understand 10 to 11 is sufficient. I thank the Senate.

AMENDMENTS NOS. 462, 465, AND 466, WITHDRAWN

Mr. President, we can dispose of a number of amendments now. I ask unanimous consent, on behalf of Senator CHAFEE, that amendment No. 466 be withdrawn; on behalf of Senator JEFFORDS that amendment No. 462 be withdrawn.

On behalf of Senator ALLARD, are you going to withdraw your amendment, I ask the Senator?

Mr. ALLARD. Is the chairman going to make a point of order on my amendment?

Mr. DOMENICI. I have to, yes.

Mr. ALLARD. OK. I appreciate the chairman, Mr. President, giving me an opportunity just to speak a minute or two about this amendment.

Mr. President, I would like to take this time to discuss this amendment that would give families with uninsured children the opportunity to obtain proper health coverage.

My amendment would allow families with uninsured children to deposit money in a medical savings account to use for health care services. I believe it is critical to provide lower income families with the option to establish medical savings accounts. MSA's allow consumers to pay for medical expenses through affordable tax-deductible plans that are most suited to their needs.

Americans want choice in health care. It is time for the Federal Government to listen to the American people and make medical savings accounts an available option. Medical savings accounts are a viable free-market approach to ensuring greater access to affordable health care coverage for the uninsured.

I believe our efforts need to be focused on providing uninsured children with accessible health care services. My amendment would give these families the opportunity of setting aside MSA funds, especially benefiting those who are self-employed, between jobs, or employed where health coverage is not available.

I am hopeful that in the 105th Congress, we will be able to expand the availability of medical savings accounts.

My amendment is one step to achieving the goal of decreasing the number of uninsured children by providing families with the option to receive much needed health care coverage. By making more MSA's available, we can make it easier for parents to finance their children's health care; afterall, the health of our Nation's children is at stake.

I understand the position of the chairman having to raise this point of order. I just hope that the Finance Committee takes a closer look at medical savings accounts and the problem we have with uninsured children.

With that, I will go ahead and withdraw my amendment.

Mr. DOMENICI. I thank the Senator. Have they been withdrawn?

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

Mr. DOMENICI. We are prepared to——

The PRESIDING OFFICER. If the Senator will suspend, is amendment No. 465, included in the package of amendments to be withdrawn?

Mr. DOMENICI. It is; 466, 462, and 465

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

The amendments (Nos. 462, 465, and 466) were withdrawn.

AMENDMENTS NOS. 463, 480, AND 481, EN BLOC

Mr. DOMENICI. Now we are prepared to accept, en bloc—the Senators will use a minimum of time—amendment No. 480, Senator MURRAY'S amendment; amendment No. 463, Senator JEFFORDS on child health; and 481, Senator DODD'S amendment regarding transfers.

The PRESIDING OFFICER. Is there objection to agreeing to the amendments en bloc?

Mr. DODD. Do you want to explain them or not?

Mr. DOMENICI. I would feel very good if you did not explain them. But if you want to, it would be great. We can keep the three of you to 1 minute combined.

Mr. JEFFORDS. Mr. President, I waive explanation.

Mr. DOMENICI. I ask the Senator, will you waive explanation?

Mr. BYRD. Could we have an explanation?

Mr. DOMENICI. The first amendment is amendment No. 480 offered by the Senator from Washington [Mrs. MURRAY].

Mr. BYRD. Could we have an explanation?

Mr. DOMENICI. She is going to do that right now.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Thank you, Mr. President.

Mr. President, the amendment that I am offering simply clarifies that they can waive victims of domestic violence from the Welfare Act. This was an amendment that was unanimously accepted in the fiscal year 1998 budget resolution and in the welfare reform bill.

I thank my colleague from New Mexico, Senator DOMENICI, for his work on this issue and appreciate the acceptance by the Senate.

Mr. DOMENICI. Thank you, Mr. President.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, my amendment tells Governors that they should report how well their child health development grant that we gave them—the block grant—how well it is working. That is basically what it does.

Mr. DOMENICI. And Senator DODD.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, this amendment is very important to the hospitals across the country. Under the law, the first hospital that cannot provide care would have its fees reduced if the patient is sent to a second hospital that can provide acute care. That is a good idea. What happens, however, is that patients that are moved from the first hospital to a home setting, no longer needing acute care, the fees of the first hospital are also reduced. We did not intend that to be the case. This amendment corrects that mistake. This is broadly supported by every hospital across the country.

My colleague from New York, Senator D'AMATO, is my cosponsor on this, along with Senator LEAHY. We hope it will be accepted.

The PRESIDING OFFICER. Is there objection to considering the amendments en bloc?

Without objection, it is so ordered.

The question occurs on amendments 463, 480, and 481 en bloc.

Mr. BYRD. Mr. President, may we have an explanation of the other two amendments?

Mr. DOMENICI. We have had all three explained.

Mr. BYRD. All three have been explained?

The PRESIDING OFFICER. All three amendments were explained.

Mr. DOMENICI. Senator MURRAY has a freestanding amendment. She explained it. Senator JEFFORDS' is freestanding; and Senator DODD.

The amendments (Nos. 463, 480, and 481) were agreed to en bloc.

Mr. LAUTENBERG. 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. 483, WITHDRAWN

Mr. DOMENICI. I have another amendment to withdraw, Senator WYDEN'S, No. 483.

Mr. WYDEN. Mr. President, because of its inclusion in the managers' package, that is appropriate at this time.

The PRESIDING OFFICER. Is there objection to withdrawing the amendment?

Mr. LAUTENBERG. No objection.

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

The amendment (No. 483) was withdrawn.

Mr. DOMENICI. I wonder if we could try one other one to see if we could dispose of it before we have a debate on the Levin amendment.

Senator GRASSLEY has an amendment that I would ask, is it acceptable on the other side, long-term care? It has to do with religious choice.

Mr. LAUTENBERG. We are looking at that, Mr. President. If we can just

defer for a few minutes, if it is all right with Senator GRASSLEY, and go on to some other business and come back to it.

Mr. DOMENICI. All right.

Regular order.

AMENDMENT NO. 482

The PRESIDING OFFICER. The question occurs on the Levin amendment No. 482.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, the National Governors' Association strongly supports allowing vocational education training to count toward meeting the work requirement under the welfare law. The current law allows a 12-month limit. The old requirement was 24 months. The Governors argue and the community colleges argue—and I think it is very persuasive—that being in vocational education should count toward that work requirement. There is no cost to the Treasury.

It will help people to complete a community college education and to count that toward the work requirement under the welfare bill.

Mr. JEFFORDS. Will the Senator yield?

Mr. LEVIN. I am happy to yield to the Senator from Vermont. He is a cosponsor of this amendment.

Mr. JEFFORDS. I support the amendment and have no problems with it being in our jurisdiction. Senator CHAFEE also supports it. He asked me to inform the Senate.

The PRESIDING OFFICER. Who wishes to speak in opposition to the amendment?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DOMENICI. I yield the time in opposition to the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, we had this debate during the welfare reform bill in the last session of Congress. We said we wanted people who are on welfare to work, not to go into more education and training. There is a time for that. We allow for education and training, but at a certain point in time we are going to require people to go to work.

Now, what this amendment says is, no, you do not have to go to work; continue education and training. This is a weakening of the work requirement. This is not going to get people into the workplace to learn the skills necessary to be competitive and to get good jobs and to improve their future.

This is more of the same what we have been doing here in Washington prior to the welfare reform bill. The President did not request this change. It is not in the budget agreement. It was not anything that anyone advocated. It should be defeated.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I make a point of order that the amendment violates section 313(b)(1)(A) of the Budget Act.

Mr. LEVIN. I move to waive the Budget Act for this amendment 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.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

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

The legislative clerk called the roll.

The yeas and nays resulted—yeas 55, nays 45, as follows:

[Rollcall Vote No. 119 Leg.]

YEAS—55

Abraham	Feingold	Lugar
Akaka	Feinstein	Mikulski
Baucus	Ford	Moseley-Braun
Biden	Glenn	Moynihan
Bingaman	Graham	Murray
Boxer	Harkin	Reed
Breaux	Hollings	Reid
Bryan	Inouye	Robb
Bumpers	Jeffords	Rockefeller
Byrd	Johnson	Sarbanes
Chafee	Kennedy	Smith (OR)
Cleland	Kerrey	Snowe
Collins	Kerry	Specter
Conrad	Kohl	Stevens
D'Amato	Landrieu	Torricelli
Daschle	Lautenberg	Wellstone
Dodd	Leahy	Wyden
Dorgan	Levin	
Durbin	Lieberman	

NAYS—45

Allard	Frist	Mack
Ashcroft	Gorton	McCain
Bennett	Gramm	McConnell
Bond	Grams	Murkowski
Brownback	Grassley	Nickles
Burns	Gregg	Roberts
Campbell	Hagel	Roth
Coats	Hatch	Santorum
Cochran	Helms	Sessions
Coverdell	Hutchinson	Shelby
Craig	Hutchison	Smith (NH)
DeWine	Inhofe	Thomas
Domenici	Kempthorne	Thompson
Enzi	Kyl	Thurmond
Faircloth	Lott	Warner

The PRESIDING OFFICER. On this question, the yeas are 55, the nays are 45. 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. The amendment falls.

Mr. DOMENICI. I move to reconsider the vote.

Mr. GRAMM. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NOS. 485, 486, AND 487 WITHDRAWN

Mr. DOMENICI. Mr. President, on behalf of Senator FEINSTEIN, I withdraw amendments numbered 485, 486, and 487.

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

The amendments (Nos. 485, 486, and 487) were withdrawn.

AMENDMENT NO. 484

Mr. DOMENICI. There is a Harkin amendment numbered 484 which we are prepared to accept, and then we will proceed to Senator KYL's amendment, and we will have a vote.

The PRESIDING OFFICER. Is there debate on the Harkin amendment No. 484?

Mr. DOMENICI. We yield back any time remaining.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the Harkin amendment numbered 484.

The amendment (No. 484) was agreed to.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 468

Mr. KYL. Mr. President, if I could have my colleagues' attention, this is amendment No. 468, designed to correct a technical corrections problem which ironically arose out of the Medicare Technical Act of 1994.

To describe it, you have been going to your doctor for 50 years. He says you need something done.

You say, "OK, do it."

He says, "Wait a minute, aren't you 65 years old now?"

You say, "Yes."

And he says, "I am sorry, I cannot treat you anymore."

"Why not?"

"Well, I don't treat Medicare patients."

"You do not have to submit the bill to Medicare. I will not submit the bill to Medicare. Let me pay you like I always have."

Sorry, HCFA says we cannot do that.

Mr. President, this is very simple. It allows for those 9 percent of the physicians who do not treat Medicare patients to continue to treat their patients as they always have. Those parties do not make a claim to Medicare, Medicare does not pay it, they simply go ahead and pay the doctor like they always have. This is not what was intended in the 1994 act, but because of the way HCFA's regulations have interpreted it, we need to make this technical correction.

I urge my colleagues to support the change.

Mr. LAUTENBERG. Mr. President, the Kyl amendment would allow something that is similar to balanced billing. It is, frankly, quite controversial. It does not belong, in my view, on a fast-track reconciliation bill. I hope we will oppose the amendment.

Mr. President, it is my view that the amendment is not germane. Therefore,

I raise a point of order that the amendment violates section 305(b)(2) of the Congressional Budget Act of 1974.

Mr. KYL. Mr. President, I am going to move to waive the point of order. I wanted to indicate that this amendment has the support of sponsors, such as Senator LOTT, Senator DOMENICI, Senator ROTH, and others on our side. I hope we can do it.

Mr. DOMENICI. Does the Senator have any time remaining?

The PRESIDING OFFICER. All time has expired.

Does the Senator wish to make a motion?

Mr. KYL. I move to waive the point of order.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act on the amendment offered by the Senator from Arizona.

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?

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] is necessarily absent.

The yeas and nays resulted—yeas 64, nays 35, as follows:

[Rollcall Vote No. 120 Leg.]

YEAS—64

Abraham	Feinstein	Mack
Allard	Frist	McCain
Ashcroft	Glenn	McConnell
Bennett	Gorton	Murkowski
Biden	Gramm	Nickles
Bond	Grams	Robb
Breaux	Grassley	Roberts
Brownback	Gregg	Roth
Burns	Hagel	Santorum
Campbell	Hatch	Sessions
Chafee	Helms	Shelby
Coats	Hollings	Smith (NH)
Cochran	Hutchinson	Smith (OR)
Collins	Hutchison	Snowe
Coverdell	Inhofe	Specter
Craig	Jeffords	Stevens
D'Amato	Kempthorne	Thomas
DeWine	Kyl	Thompson
Dodd	Landrieu	Thurmond
Domenici	Lieberman	Warner
Enzi	Lott	
Faircloth	Lugar	

NAYS—35

Akaka	Feingold	Mikulski
Baucus	Ford	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Bryan	Johnson	Reed
Bumpers	Kennedy	Reid
Byrd	Kerrey	Rockefeller
Cleland	Kerry	Sarbanes
Conrad	Kohl	Torricelli
Daschle	Lautenberg	Wellstone
Dorgan	Leahy	Wyden
Durbin	Levin	

NOT VOTING—1

Inouye

The PRESIDING OFFICER. On this vote, the yeas are 64, the nays are 35. Three-fifths of the Senators duly chosen and having voted in the affirmative, the motion is agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 468

The PRESIDING OFFICER. The question now occurs on the amendment of the Senator from Arizona.

The amendment (No. 468) was agreed to.

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

The PRESIDING OFFICER. Without objection, the motion to lay on the table is agreed to.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, I think we have been making good progress. Unfortunately, we have had far too many amendments that were carried over from last night.

I hope that at some point in the future we can come together with the leadership on both sides and come to an agreement on a better system of doing business than having these votes on important matters of 10 minutes. But for now we have been making good progress.

The managers on both sides and the staff have been working very hard to understand what these amendments are and to see if agreements can be worked out on them and to see if they can be accepted or whether or not they should be passed or defeated. But they need a little time now.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask that there now be a period for the transaction of morning business until the hour of 12:45 with Senators permitted to speak for up to 5 minutes each.

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

Mr. LOTT. Mr. President, when the Senate resumes, the voting sequence will start at approximately 12:45. I urge all Senators to please be back in the Chamber in order to make the process as orderly as possible. This will give us a chance to get a bite to eat and for the staff to assess which one of these amendments we can accept or reject.

I yield the floor.

The PRESIDING OFFICER. Who seeks time?

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. ABRAHAM. Thank you, Mr. President.

MFN STATUS FOR CHINA

Mr. ABRAHAM. Mr. President, I take this opportunity in morning business to talk briefly about an issue that I know a number of Members on both sides of the aisle care very much about.

Yesterday in the House of Representatives a resolution which would have opposed or ended America's most-favored-nation status relationship with the People's Republic of China was defeated. But in the wake of that defeat, I think we still have an obligation to examine closely the policies of the Chinese Government and to not simply criticize those policies in word but also act with respect to those policies indeed. To that end, I urge my colleagues to begin the examination process of what, separate from acting in the context of most-favored-nation status, we might do as a matter of American policy.

The concerns that many of us have with respect to human rights abuses in China, ranging from coercive family planning practices to religious persecution, to the events that occurred in Tiananmen Square just a few years ago, combined with a variety of other things, such as the activities in this country of certain Chinese companies that operate under the auspices of the People's Liberation Army—most recently the incidence in which AK–47 assault rifles were on their way to street gangs in Los Angeles, and happily that was prevented from occurring—but a variety of actions that I think demand a response from this country that goes beyond rhetoric.

To that end, I recently introduced legislation here in the Senate, the China Sanctions and Human Rights Advancement Act. I ask my colleagues to take a look at that legislation. Now that it is clear that the most-favored-nation status debate is over for this year, I think we should be looking at other options.

I believe this legislation embodies a variety of very targeted responses to the things that have gone on in the People's Republic of China that Americans are concerned about. It would, among other things, deny visas to those high-ranking Government officials who have engaged in some of the policies and practices that we deplore. It would upon the United States to vote "no" with respect to votes on loans to China by international multilateral development banks so that we will not have American taxpayers subsidizing the Chinese Government.

It would identify those Chinese companies who are operating in this country and take specific sanctions against those who have been identified as having engaged in inappropriate and illegal activities.

It would attempt to deal in a very specific way with the issues of the proliferation of weapons technologies that has gone on between the Government of China and nations such as Iran.

It has a wide array of components to it.

I ask that all Members who are concerned about the actions of the Chinese Government look at this legislation. This Senator is anxious to look at other ideas, because I think a response is warranted beyond the MFN debate itself.

Mr. President, with that I yield the floor. 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. SANTORUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

WELFARE REFORM

Mr. SANTORUM. Mr. President, after listening to some of the debate on amendments that are being offered and having the opportunity to come to the floor and defend what we did last year on the welfare reform bill, you would think by all of the amendments that are being discussed and by all of the gnashing of teeth that is going on here in the U.S. Senate today, that we have a welfare reform bill—the bill that passed this Congress last session and implemented by the States' 50 Governors—that we are having an abject failure; that horrible things are happening out there in the area of welfare that we have to now come back and save all of these people. I hate to disappoint anybody's party here. But the fact of the matter is that things are not all that bad. In fact, things are doing very, very well in the area of welfare. I will point to a couple of things as illustrations.

First, I have not seen one major newspaper write one bad article or editorial on the devastating effects of welfare reform passed by the last Congress. I assure you that if there were any devastating stories to be told, they would be telling them because of all these papers that were against the welfare reform bill that went through. The fact that we have not heard of horror stories and that we have not heard any gnashing of teeth from the media about what is going on is certainly a positive sign that things are actually going well.

I might also add that none of the press has come and said, "Gee, we were wrong." Welfare in Wisconsin—50 percent of the people have been dropped off the rolls, and are working. Across the country the average is 20 percent of welfare rolls have been reduced, and people are working—in case after case after case.

I spend at least one visit a week when I am back in the State of Pennsylvania going in and talking to people in education and training programs, homeless shelters—you name it—talking to the people who are intersecting with the welfare programs. And almost unanimously what I have gotten as feedback is, "This program is a program I wish you had passed earlier. I wouldn't be here today working. I wouldn't be here today getting the education and training I need, succeeding, and feeling better about myself had this bill not passed."

We have an unmitigated success in welfare. We threw the ball up in the air. The Governors of the 50 States jumped. They caught it, and they are running with the ball. They are doing positive things for the poor and for the disadvantaged all across America. I just think that we need to take some time here today in the midst of all of these amendments that says all of these people are being hurt. The fact of the matter is a vast majority are being helped tremendously by what went on in welfare reform.

I hope Members—frankly, those who supported welfare reform and those who did not—I hope that they will come to the floor and say, "Look, this program is working." From any objective criteria, people are working; people are going in and getting education and training that they never would have had before because, frankly, they needed that little shove. We are giving it to them. We are supplying them, and the Governors, with the child care that they need.

We have a lot of work to continue to do on that front and on some other fronts in the area of Medicare and other kinds of health coverage. But the Governors are working on that. They are taking this responsibility that we have given them—this flexibility that we have given them—very seriously and are doing a terrific job.

So I just want to set the record straight here on a day that might otherwise be seen as a day where welfare reform came under attack here in the U.S. Senate. What we are seeing in reality outside of Washington DC, outside of the Senate Chamber, where we continue to think of the welfare of the past and look to the future—go out there in those communities and find out the success stories, the wonderful, heartfelt stories of people who needed this piece of legislation and who needed this change in the welfare culture.

I think probably the most dramatic thing that I heard from someone who is not on welfare but someone who worked in the system is from two people who had been in the welfare casework role for 25 years in New Castle, PA. They came to me and said, "I can't thank you enough for changing the law to let me do what I wanted to do 25 years ago but never had the chance"—that is, help people get off welfare, help people actually use their ability and get the respect for themselves instead of just passing out checks and creating dependency. The person was actually thanking me, almost in tears, thanking us for giving him the opportunity to do what 30 years of welfare policy wouldn't let him do—that is, get people off of welfare, give them the incentive and the tools to make it off the dependency of the Government instead of ensuring that they would never leave by creating a meal ticket forever on welfare.

So I just want to reiterate one last time that anyone in this Chamber who believes that welfare reform is in bad shape and we need to go and rewrite the welfare bill because of all the terrible things that are going on out there, I suggest you go out there and you talk to the Nation's Governors, you talk to the people who are working in the system, you talk to the people who are going through the system, and you will hear a very different story than what you are hearing here today in the Senate.

I yield the floor.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. Who seeks time?

The Senator from Illinois is recognized.

Mr. DURBIN. I thank the Chair. I would like to respond to my colleague from Pennsylvania.

I voted for the welfare reform bill, and I thought it was long overdue. The welfare system in America definitely needs to be changed, reformed, and in many areas just plain abandoned. It was a system which had sustained many families, but it also captured many families and ensnared them in welfare dependency, and we knew it. And that is why on a bipartisan basis we voted for welfare reform. But I do not believe that it is accurate to assess the success of welfare reform strictly on the wisdom of that legislation.

Fortunately, we live in a time of an expanding economy that is creating jobs, creating opportunities for small businesses, for new housing starts. We are seeing the lowest controlled inflation in a long, long period of time. We are seeing the deficit come into control. And I have to say to my friend, the Republican from Pennsylvania, I don't think you can take any credit for that because, unfortunately, not a single Republican Member of this Senate at the time supported the President's plan for deficit reduction. It passed with all Democratic votes and the vote of the Vice President and passed by a scant margin in the House of Representatives with no Republican support. And because of the President's plan, we have had 5 straight years of deficit reduction and economic expansion, something the other party speaks of a lot but something the Democrats delivered.

And so when we talk about opportunities to come off welfare, what opportunity would there be if we were in a

recession with fewer jobs for people who are searching for that first-time job opportunity. I am afraid very, very few. And I also have to take exception to the idea that this welfare reform was somewhere hammered into marble, Holy Writ, that should not be changed or addressed. The success of a man like Franklin Roosevelt as President of the United States was his recognition that he was not perfect. He would come up with good ideas and he would try to implement them. Some turned out to be wildly successful, like Social Security, others fell on their face. He had at least the good sense to come forward and say there are times when you should abandon a program or change it. The same is true when it comes to welfare reform.

I might remind my colleague from Pennsylvania that even this year the Republican leadership in the House and Senate acknowledged the shortcomings of our welfare reform bill, particularly when it came to those who are legal immigrants to the United States. That was a very unfair provision, to force people off of disability income because they were here strictly on the basis of being legal immigrants. These are not illegals but legally here in the United States. I offered an amendment today. I tried to correct another failing, as I see it, in the welfare reform bill and it relates to food for children, food stamps for children. These are children of legal immigrants living in the United States who were cut off their food stamps in April of this year. I will tell the Senator from Pennsylvania the decision of this Chamber today I think was the wrong one, to deny food stamps to these children. It is one that we will pay for over and over and over again. A hungry child in this country without appropriate nutrition is a child who is likely to have more medical problems, likely to fall behind in school, more likely to become a future welfare or crime statistic.

I cannot understand why this Congress, like so many businesses, and I guess so many people, cannot look ahead beyond the next budget. We live in a country where the biggest growth industry is the construction of prisons. There are 19 cities in my home State of Illinois competing right now not for a new business but for the latest prison to be built by our State. We have more people under lock and key in America than in any country other than Russia. Why?

Is it because we are just more violent, more prone to criminal activity? I think it is a much deeper question. It goes to our children, whether or not some of these kids can be rescued, can be saved, can be put on the right path in their lives. It involves a commitment. Yes, I believe in three strikes you're out, but I also believe in taking the necessary action to avoid the first strike. Give a child a chance with prenatal nutrition, with appropriate infant nutrition, with Head Start, with education, with mentoring, the kind of community support that counts. And yet this body I am afraid considers that to be squandering of national assets. We have all the money in the world to build a prison. We do not have all the money in the world to improve our schools. When my colleague, Senator CAROL MOSELEY-BRAUN, comes forward with the crumbling schools proposal that says let us make sure the schools our kids attend are safe, that they have appropriate care for the children there, we find out that there are many people particularly on the Republican side of the aisle who say that is something that our Government should not worry about. I disagree. The shiniest new building in many cities across America is a prison; the one that is crumbling down is a school. What message does that send to children, to families and to our Nation?

When this Senate decided today to defeat my amendment not to send food stamps to these children, I am afraid it is a decision we will pay for for years to come. These kids are likely to become citizens of the United States. They are likely to be our neighbors, kids seeking jobs in the future. We are penny-wise and pound-foolish when we do not provide the basic necessities of life like food and health care and education for children.

So, yes, I supported welfare reform. I think the economy has sustained the kind of growth which has given welfare reform an opportunity to flourish but, for goodness sakes, why aren't we investing in our children? Why has this become so partisan and so strident that when we stand up with the Levin amendment and talk about more time for vocational education so that kids can get off welfare and go to work, it becomes a partisan vote? The Republicans say no; the Democrats say yes. Nothing happens. For the kid, the young man, the young woman who needs a chance at education, that was an important vote. And this Senate said no. That does not make sense. End welfare but end it responsibly. Make an investment in America's kids, an investment that will pay off for many generations to come.

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

The PRESIDING OFFICER. The time of the Senator from Illinois has expired. Who seeks time?

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. I would like to quickly respond, if I could, to just a couple of comments. I hope we will not stand here and say that the welfare program, the changes that we made in the last Congress have been a failure. They have been a great success. Look in my home State of Kansas where welfare rolls have gone down 30 percent. And, yes, we have had a strong economy, but in the past we have had a strong economy when the welfare rolls have gone up. You have to change the incentives in the program. That is what we did in the last Congress. It was a positive step to move forward. So I hope that we do not make something a failure when it has been a strong success and people are working now rather than receiving payments from the Government and they are having more self-confidence themselves.

I think this is good for people, too, because with the past system the people on welfare, along with the people that paid for welfare, thought it was a horrible failure and a horrible system. We have changed the dynamics, and we have changed the incentives in this program to where the people are incentivized to work. And they feel good about it. They feel better about it. And this is a program that is going to work.

I think there are a lot of things we could spend money on that might well be good, but we have tended to do a lot of that in the past, to the point we are over $5 trillion in the hole. So that we just cannot keep voting for everything to be able to do it or else we are not going to get in balance.

MOST-FAVORED-NATION STATUS FOR CHINA

Mr. BROWNBACK. Mr. President, I would like to comment on the comments of the Senator from Michigan where he was addressing a foreign policy concern, and that is China.

Yesterday, the House voted on most-favored-nation status and extended that status toward China even though we are having a great deal of difficulty in that country, and I do think we need to take additional steps in addressing this issue of China and our relationships back and forth.

We have had problems with that nation expanding weapons of mass destruction, selling them to some of our enemies that we have around the world, particularly Iran. We have had problems with religious persecution, with forced abortion in that nation, and I think we need to step up and pass the issue of MFN.

The Senator from Michigan has a start in his bill when he is talking about some different areas where we can put pressure on that nation in our relationship there to encourage more religious freedom taking place and to discourage things like weapons proliferation.

RELIGIOUS PERSECUTION

On Monday of this week, Senators JOE LIEBERMAN and ROBERT BENNETT, along with myself, hosted a forum on religious persecution around the world. We found this was not just a problem

in China. It is in the Middle East. It is in Africa. And we are talking about an issue that goes beyond just certain levels of discrimination, all the way to the point of slavery, to murder that is taking place in those countries.

A number of us came forward with solutions. Let's create a register of those people who are being persecuted around the world, and let's start to highlight it. Let's start a commission in areas of the Middle East, in Africa, focusing on this issue of the need for religious freedom. It is a founding principle of this country. People came here seeking freedom, seeking religious freedom. We are and we always will be best as a nation when we talk about principles. This is a guiding principle that we need to continue to move forward beyond this debate of MFN and focus nationally on this issue of what is taking place there. Create the register, create the commissions, focusing on this area. And I look forward to working with my colleagues, Senator LIEBERMAN and many others. I hope it will begin in us talking about something that is so basic to America, religious freedom. We need to implement that and move those around the world.

I yield the floor.

The PRESIDING OFFICER. Who seeks time?

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

(The remarks of Mr. KERRY pertaining to the introduction of S. 956 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

BALANCED BUDGET ACT OF 1997

Mr. DOMENICI. Parliamentary inquiry. Is it not time to return to consideration of the bill?

The PRESIDING OFFICER. Under the previous agreement, the Senate resumes consideration of S. 947. The Senator is correct.

The Senate continued with the consideration of the bill.

AMENDMENT NO. 467, AS MODIFIED

(Purpose: To preserve religious choice in long-term care)

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, in behalf of Senator GRASSLEY, I submit a modified amendment, No. 467. It has been cleared on both sides. I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. GRASSLEY, proposes an amendment numbered 467, as modified.

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, as modified, is as follows:

On page 689, between lines 2 and 3, insert the following:

"(iii) RELIGIOUS CHOICE.—The State, in permitting an individual to choose a managed care entity under clause (i) shall permit the individual to have access to appropriate religiously-affiliated long-term care facilities that are not pervasively sectarian and that provide comparable non-sectarian medical care. With respect to such access, the State shall permit an individual to select a facility that is not a part of the network of the managed care entity if such network does not provide access to appropriate faith-based facilities. Such facility that provides care under this clause shall accept the terms and conditions offered by the managed care entity to other providers in the network. No facility may be compelled to admit an individual if the medical director of that facility believes that the facility cannot provide the specific nursing care and services an enrollee requires.

Mr. DOMENICI. I yield any time we have on the amendment.

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

The amendment (No. 467), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 473, WITHDRAWN

Mr. DOMENICI. Mr. President, in behalf of Senator HUTCHISON, I seek the withdrawal of amendment No. 473. I ask it be withdrawn.

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

The amendment (No. 473) was withdrawn.

AMENDMENT NO. 493

Mr. DOMENICI. Senator KENNEDY has an amendment, No. 493, Kennedy-Lautenberg. Senator LAUTENBERG introduced it for Senator KENNEDY, to exempt severely disabled aliens from the ban on receipt of supplemental income. It is at the desk. I indicate from our side that there is no objection. I understand from the Democratic side there is no objection.

Senator KENNEDY, is that correct?

Mr. KENNEDY. That is correct. I thank the chairman of the committee for his consideration. It is a serious issue and a heartrending issue for many different individuals. The willingness to accept this amendment is something we are very, very appreciative of. If I might just say a few words about it.

Under the budget reconciliation bill, legal immigrants who are already in this country can keep their SSI benefits. But for those who come in the future, SSI is only for citizens. They have to become citizens to qualify in the future, so your sponsor must take care of you until then.

This amendment creates a small exception to that rule. It enables immigrants who are too disabled to qualify for citizenship to retain their SSI eligibility.

Some immigrants and refugees—though not many—become too disabled to qualify for citizenship. Under this bill, their sponsors have to care for them for life. If they don't have sponsors, they have nowhere to turn.

One example is Vien Vu. His family fled Vietnam after years of serving side-by-side with the United States Armed Forces. But Vien Vu has Downs syndrome. He is 34 years old. The rest of his family has become American citizens but Vien will never qualify for citizenship. His family needs SSI to care for him for the rest of his life.

Mendel Tsadovich is a Latvian Holocaust survivor who is too mentally retarded to qualify for naturalization. In 1992, he and his family escaped as refugees from the anti-Semitism of the former Soviet Union. He is now 61 and living in New York. He is the only surviving member of his family, and depends on SSI for assistance. He has no sponsor.

Vien and Mendel are the lucky ones. They arrived before passage of last year's welfare law. So the reconciliation bill will continue their SSI coverage. But what about the Viens and Mendels who arrive in the future?

With the passage of the Lautenberg amendment this morning, my amendment costs almost nothing. CBO scores it as having little budget impact. So, we can help all those like Vien and Mendel and still balance the budget by 2002.

The number of immigrants this amendment affects is small, perhaps only a few thousand people a year. But these immigrants often depend on SSI benefits for their survival. If they do not have the ability to become citizens, Congress should not deny them the SSI benefits they need.

Mr. DOMENICI. Mr. President, I have a couple of seconds. I want to say, some may ask why I accepted this. Actually, it's a very tiny group of people. It covers those who are so seriously disabled that the disability disqualifies them from completing their naturalization process. Therefore, they cannot become citizens. They are noncitizens, but legal. As a result, they are denied benefits described in the Kennedy amendment for only that reason. So I agree to accept that.

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

The amendment (No. 493) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 469

Mr. DOMENICI. I understand the next amendment in order is by Senator SPECTER, No. 469. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I am offering this amendment on behalf of Senator ROCKEFELLER, Senator SANTORUM, Senator SNOWE, Senator COLLINS, and Senator CAMPBELL. It would ensure that $1.5 billion over 5 years of Medicare premium subsidies is provided to the low-income elderly with annual incomes up to $12,000 through expansion of the existing Medicaid Program, instead of what is in the current bill, to add $1.5 billion through a new State block grant program.

This amendment is preferable, by doing it on an existing program instead of setting up a new bureaucracy. It is necessary because the premium increases in the bill are permanent, but there is no guarantee of permanent subsidies for the 3.2 million poor senior citizens covered unless this amendment would be adopted.

I yield the remainder of my time to Senator ROCKEFELLER.

Mr. ROCKEFELLER. Mr. President, I point out that this amendment would help seniors making, on an annual basis, between $9,500 a year and $11,900 a year. It would simply take the principles of the Medicaid Program and carry them forward, and simply say those folks deserve to get help in the Medicare payment because they are so desperately poor. This is well established in Medicaid. We are now applying it to a new area and saying, rather than 120 percent of poverty, we are saying 120 percent of poverty to 150 percent of poverty. It is very sensible. It helps people.

This program is going to sunset in 5 years, but their costs are not going to sunset in 5 years. We think it is an amendment which both sides are willing to vote for.

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

Mr. DOMENICI. Mr. President, first I make a point of order that the amendment is not germane.

Mr. SPECTER. Mr. President, I move to waive.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, yesterday we provided $1.5 billion in new funds to assist Medicare beneficiaries between 120 and 150 percent of the poverty line with their part B premiums. That was expected under the agreement that we entered into with the White House. We provided these funds as a State program, providing maximum flexibility to reach these individuals in the greatest need. We do not need this additional program, which would create a new entitlement, which we can't afford. I urge my colleagues to oppose the amendment, or to support the point of order.

I yield the floor.

MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on the motion of the Senator from Pennsylvania to waive the Budget Act. The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

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

The yeas and nays resulted, yeas 52, nays 48, as follows:

[Rollcall Vote No. 121 Leg.]

YEAS—52

Akaka	Feingold	Lieberman
Baucus	Feinstein	Mikulski
Biden	Ford	Moseley-Braun
Bingaman	Glenn	Moynihan
Bond	Graham	Murray
Boxer	Harkin	Reed
Breaux	Hollings	Reid
Bryan	Inouye	Robb
Bumpers	Jeffords	Rockefeller
Byrd	Johnson	Santorum
Cleland	Kennedy	Sarbanes
Collins	Kerrey	Snowe
Conrad	Kerry	Specter
D'Amato	Kohl	Torricelli
Daschle	Landrieu	Wellstone
Dodd	Lautenberg	Wyden
Dorgan	Leahy	
Durbin	Levin	

NAYS—48

Abraham	Frist	Mack
Allard	Gorton	McCain
Ashcroft	Gramm	McConnell
Bennett	Grams	Murkowski
Brownback	Grassley	Nickles
Burns	Gregg	Roberts
Campbell	Hagel	Roth
Chafee	Hatch	Sessions
Coats	Helms	Shelby
Cochran	Hutchinson	Smith (NH)
Coverdell	Hutchison	Smith (OR)
Craig	Inhofe	Stevens
DeWine	Kempthorne	Thomas
Domenici	Kyl	Thompson
Enzi	Lott	Thurmond
Faircloth	Lugar	Warner

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 48. 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. DOMENICI. Mr. President, I move to reconsider the vote by which the motion was rejected.

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

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, how much time did that vote take?

The PRESIDING OFFICER. That vote took 17 minutes.

Mr. DOMENICI. I understand the leader will be—

The PRESIDING OFFICER. If the Senator will suspend, I ask that there be order in the Chamber and that Members wishing to pursue discussions, and especially staff wishing to pursue discussions, take those discussions to the Cloakroom. We are not going to proceed until there is order so the Senator from New Mexico can be heard.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I repeat my question. How much time did the last vote take?

The PRESIDING OFFICER. The last vote took approximately 17 minutes.

Mr. DOMENICI. We are operating on a unanimous-consent agreement that says we will take 10 minutes for rollcall votes. I understand the leader will be along shortly and indicate we that will go to the 10-minute rule. But I am not going to hold Senators to that unless the leader comes and confirms it. But 17 minutes, that is an extra hour for people today; it seems like to me maybe longer.

We have a little business we can conduct at this point.

AMENDMENT NO. 495

Mr. DOMENICI. We are willing to accept a Conrad amendment dealing with the nurse aide registry.

I ask the Senator, are you willing to accept that on your side?

Mr. LAUTENBERG. We are.

Mr. DOMENICI. We yield back any time on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is agreed to.

The amendment (No. 495) was agreed to.

Mr. DOMENICI. 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.

AMENDMENT NO. 470

Mr. DOMENICI. Mr. President, I ask unanimous consent that Senator SPECTER's next amendment, which is 470, that it be temporarily set aside. And the Senator would like 30 seconds to explain why he is agreeing to that.

Mr. SPECTER. Mr. President, this is an amendment related to disproportionate share. Some States have been hit very hard because some of the funds have been used for mental health facilities. There has already been substantial improvement; illustratively, for Pennsylvania, which had been on the books to sustain a loss of $1.7 billion, it is down to $750 million. And the managers are now considering an amendment which would improve that situation materially.

So I agree with my distinguished colleague from New Mexico to set it aside temporarily with the hope we may be able to work it out, and ultimately have it withdrawn if a satisfactory resolution can be arrived at.

The PRESIDING OFFICER. Without objection, it is set aside.

Mr. DOMENICI. Mr. President, I ask one further unanimous consent, that Senator MIKULSKI's amendment No. 489 follow Senator SPECTER's amendment, which he will proceed with now, which is amendment 471.

I yield the floor.

The PRESIDING OFFICER. Is there objection?

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from West Virginia.

POINT OF ORDER

Mr. ROCKEFELLER. Mr. President, I ask for the regular order with regard to the point of order under the Byrd rule which was raised on the balanced billing.

The PRESIDING OFFICER. The Senator's point of order is the regular order.

Mr. DOMENICI. Mr. President, might I ask, how is the Chair going to rule? Parliamentary inquiry. Can't do that? I withdraw the question.

I move to waive the point of order and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The clerk will call the roll.

Mr. BYRD. Mr. President, may we have some explanation what we are about to vote on?

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 1 minute.

Mr. ROCKEFELLER. I urge my colleagues to vote no, against the motion to waive the Budget Act, so that we protect patients in these sorts of very special Medicare Choice programs who, unless we give them the protection, unless we vote no, doctors are going to be able to charge whatever they want. Everybody else under Medicare is under something called balanced billing. Balanced billing means you can only charge 15 percent more than what Medicare pays for it. This was agreed to in 1989 when we did a massive Medicare reform.

We should not be able to take a sort of special fee for service part of the new Medicare Choice and suddenly say that the doctor can charge them anything they want. They have no protection from balanced billing rules which protects all other people who are under Medicare. And it is the law of the land. It is a very important principle, a very important point. And since we have done this in 1989, since we have put a cap on the balanced billing, which the other side would have us let go, seniors have saved $2 billion since 1989.

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

Mr. DOMENICI addressed the Chair.

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

Mr. DOMENICI. Mr. President, I yield 40 seconds of that to Senator GRAMM. I will use 20.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, by giving a broad range of choices to our seniors, we have given them the ability to opt into a private fee-for-service health insurance policy.

Now, if we come along and start restricting the way that a private health insurance policy can function, and tell them how they are to bill for physician services, we take away the whole competitive nature of what we are trying to create. I know some people do not like the idea of expanding choices for seniors.

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

Mr. GRAMM. But that is what we have done, and we need to preserve the ability of these mechanisms to function. It is important we waive the point of order.

Mr. DOMENICI. Mr. President, essentially this amendment will gut MSA's and private fee-for-service programs that come into this bill which permits seniors a wide array of options. They are gone essentially, for the regulatory mechanisms that will be imposed on them will make them a nullity.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

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 assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Utah [Mr. HATCH] is necessarily absent.

The yeas and nays resulted—yeas 62, nays, 37, as follows:

[Rollcall Vote No. 122 Leg.]

YEAS—62

Abraham	Faircloth	McCain
Allard	Feinstein	McConnell
Ashcroft	Frist	Moynihan
Bennett	Gorton	Murkowski
Biden	Gramm	Nickles
Bingaman	Grams	Roberts
Bond	Grassley	Roth
Breaux	Gregg	Santorum
Brownback	Hagel	Sessions
Burns	Helms	Shelby
Campbell	Hutchinson	Smith (NH)
Chafee	Hutchison	Smith (OR)
Coats	Inhofe	Snowe
Cochran	Jeffords	Specter
Collins	Kempthorne	Stevens
Coverdell	Kerrey	Thomas
Craig	Kyl	Thompson
D'Amato	Landrieu	Thurmond
DeWine	Lott	Torricelli
Domenici	Lugar	Warner
Enzi	Mack	

NAYS—37

Akaka	Bryan	Cleland
Baucus	Bumpers	Conrad
Boxer	Byrd	Daschle
Dodd	Johnson	Murray
Dorgan	Kennedy	Reed
Durbin	Kerry	Reid
Feingold	Kohl	Robb
Ford	Lautenberg	Rockefeller
Glenn	Leahy	Sarbanes
Graham	Levin	Wellstone
Harkin	Lieberman	Wyden
Hollings	Mikulski	
Inouye	Moseley-Braun	

NOT VOTING—1

Hatch

The PRESIDING OFFICER. On this question, the yeas are 62, the nays are 37. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. DOMENICI. I move to reconsider the vote.

Mr. NICKLES. I move to lay it on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, the Democratic leader and I have talked about the necessity to try to complete votes in the time prescribed. We have been warning and urging Members to stay in the Chamber to do these votes. It has taken about 50 minutes to do two votes. We did cut that last vote off with one Member missing. This is the final warning. From here on in after 10 minutes we are going to turn in the vote.

So please stay in the Chamber. Let's vote. We can save ourselves an hour or more if we do that. Please do that. Please cooperate with us and we can get our work done and get it done an hour or so earlier.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOMENICI. Mr. President, I believe under the rule, Senator SPECTER is up.

AMENDMENT NO. 471

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, this amendment eliminates the cuts on indirect grants in medical education. In 48 States there are 1,085 teaching hospitals which perform very, very valuable services. In addition to teaching professionals, they give basic health services, customarily in the inner cities. With a disproportionate share coming into effect, their financing is very, very important.

Beyond that, they give highly specialized patient care so that if you have some really extraordinary medical problem, where you go is to these graduate medical educational institutions.

These cuts would be crippling. I suggest that as a matter of priority they be eliminated from this bill.

Mr. DOMENICI. Mr. President, I yield 40 seconds of the 1 minute to Senator ROTH.

Mr. ROTH. Mr. President, I oppose this amendment. Simply put, according to most experts, Medicare today overpays for indirect medical education,

which is a special Federal subsidy for training new doctors. We have substantially but responsibly reduced those payments in our bill, and, indeed, these payments will remain very generous. This amendment is not needed and would prevent us from meeting our budget instructions.

Mr. DOMENICI. Mr. President, this amendment will cost us $5.6 billion in this bill alone. The explanation given by the distinguished chairman seems to me to indicate we are going to be more than fair with reference to the indirect payment.

Mr. SPECTER. I believe I have 7 seconds remaining.

Mr. President, this will not require a waiver of the Budget Act, and although the sum is not insignificant, this is really important for America.

I ask that Senator D'AMATO be listed as a cosponsor.

Mr. DOMENICI. Some Senators might wonder why it is not subject to a point of order when it cuts $5.6 billion. That is because it is a motion to strike, and motions to strike are in order under the Budget Act regardless of their impact.

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 PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Pennsylvania.

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 71, nays 29, as follows:

[Rollcall Vote No. 123 Leg.]

YEAS—71

Abraham	Ford	Lott
Allard	Frist	Lugar
Ashcroft	Glenn	Mack
Baucus	Gorton	McCain
Bennett	Graham	McConnell
Breaux	Gramm	Moseley-Braun
Brownback	Grams	Murkowski
Bryan	Grassley	Nickles
Burns	Gregg	Reed
Campbell	Hagel	Robb
Chafee	Hatch	Roberts
Coats	Helms	Rockefeller
Cochran	Hollings	Roth
Collins	Hutchinson	Sessions
Conrad	Hutchison	Shelby
Coverdell	Inhofe	Smith (NH)
Craig	Kempthorne	Smith (OR)
DeWine	Kerrey	Snowe
Dodd	Kohl	Stevens
Domenici	Kyl	Thomas
Dorgan	Landrieu	Thompson
Enzi	Lautenberg	Torricelli
Feingold	Leahy	Warner
Feinstein	Lieberman	

NAYS—29

Akaka	Byrd	Harkin
Biden	Cleland	Inouye
Bingaman	D'Amato	Jeffords
Bond	Daschle	Johnson
Boxer	Durbin	Kennedy
Bumpers	Faircloth	Kerry
Levin	Reid	Thurmond
Mikulski	Santorum	Wellstone
Moynihan	Sarbanes	Wyden
Murray	Specter	

The motion to lay on the table the amendment (No. 471) was agreed to.

Mr. DOMENICI. 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.

The PRESIDING OFFICER. The regular order would now be the Mikulski amendment.

AMENDMENT NO. 472, WITHDRAWN

Mr. DOMENICI. Mr. President, on behalf of Senator BURNS, I withdraw Senate amendment No. 472.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 472) was withdrawn.

AMENDMENT NO. 494, WITHDRAWN

Mr. DOMENICI. On behalf of Senator CONRAD, I withdraw amendment No. 494.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 494) was withdrawn.

AMENDMENT NO. 489

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Thank you very much. On behalf of Mr. WELLSTONE and myself, we have an amendment at the desk that will strike the committee action and restore something called the Boren amendment. The Boren amendment was passed and signed by President Reagan in 1981 to ensure adequate access to health care services for Medicaid beneficiaries.

The Boren amendment simply stated that payment rates for hospitals and nursing homes must be reasonable and adequate to meet the cost of operating the facilities. That is reimbursements by Medicaid. Now, under the committee action, we would take that away. We would give permission to States to further reduce payment rates to nursing homes at this time. This would have a devastating affect on quality care, and it would have a devastating affect on access to care for beneficiaries.

The simple fact is that Medicaid payment rates to nursing homes does affect quality and our ability to meet the standards that are mandated for health and safety. Nursing homes have stopped taking Medicaid patients. Because of that, I urge adoption of the amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield 30 seconds of my minute to the Senator from Texas.

Mr. GRAMM. Mr. President, we are always looking for bipartisanship. The President is in favor of repealing the Boren amendment. The National Governors' Association is in favor of repealing the Boren amendment. The amendment of the Senator from Maryland will raise the deficit and reduce our savings by $1.2 billion. How does anybody know what is reasonable and adequate? The Boren amendment has produced endless lawsuits. States want to negotiate with hospitals and get the best rate they can. Repealing the Boren amendment takes it out of the courts.

Mr. DOMENICI. Mr. President, as we negotiated a balanced budget with the President and the Governors, the administration regularly said, "We want to provide flexibility." What is flexibility? Get rid of the Boren amendment. That is what they kept saying. Provide flexibility instead of the rigidity brought on by lawsuits. The Boren amendment should be dead. The President is not for it. Now someone wants to put it back in, and it will cost $1.2 billion to put something back in that didn't work.

I move to table the Mikulski 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 are 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 desiring to vote?

The result was announced—yeas 66, nays 34, as follows:

[Rollcall Vote No. 124 Leg.]

YEAS—66

Abraham	Faircloth	Leahy
Allard	Feingold	Lott
Ashcroft	Frist	Lugar
Baucus	Gorton	Mack
Bennett	Graham	McCain
Bingaman	Gramm	McConnell
Bond	Grams	Moynihan
Breaux	Grassley	Murkowski
Brownback	Gregg	Nickles
Bryan	Hagel	Robb
Burns	Hatch	Roberts
Campbell	Helms	Roth
Chafee	Hollings	Santorum
Coats	Hutchinson	Sessions
Cochran	Hutchison	Smith (NH)
Collins	Inhofe	Smith (OR)
Conrad	Jeffords	Snowe
Coverdell	Kempthorne	Specter
Craig	Kerrey	Stevens
DeWine	Kohl	Thomas
Domenici	Kyl	Thompson
Enzi	Lautenberg	Thurmond

NAYS—34

Akaka	Ford	Murray
Biden	Glenn	Reed
Boxer	Harkin	Reid
Bumpers	Inouye	Rockefeller
Byrd	Johnson	Sarbanes
Cleland	Kennedy	Shelby
D'Amato	Kerry	Torricelli
Daschle	Landrieu	Warner
Dodd	Levin	Wellstone
Dorgan	Lieberman	Wyden
Durbin	Mikulski	
Feinstein	Moseley-Braun	

So the motion to lay on the table the amendment (No. 489) was agreed to.

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

the motion to lay on the table was agreed to.

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

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, how much time did we use on that vote?

The PRESIDING OFFICER. Twelve minutes.

Mr. DOMENICI. I thank the Chair.

CHANGE OF VOTE

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Thank you, Mr. President.

On rollcall vote 124, I voted "no." It was my intention to vote "yes." 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. DOMENICI. Regular order.

AMENDMENT NO. 488

The PRESIDING OFFICER. Regular order is the amendment of the Senator from Minnesota, No. 488.

Mr. WELLSTONE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will come to order.

We can move this along if Members in the room would withdraw their conversations to the Cloakroom, and if the staff will reserve their conversations.

The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, if I could just say to you, I am not going to start, if I could ask for order.

The PRESIDING OFFICER. If the Senator will suspend, we are not going to proceed until the Senator from Minnesota can be fairly heard. The staff will reserve their conversations. It will help to move this along.

The Senator from Minnesota is recognized for 1 minute.

Mr. WELLSTONE. Mr. President, it is hard in this process because people want to talk. But these amendments have consequences for people's lives.

I would like to wait until we have order.

Mr. DOMENICI. Mr. President, we can't hear.

Mr. WELLSTONE. I have people talking all around me.

The PRESIDING OFFICER. The Senator from Minnesota is correct.

The Senator from Minnesota is recognized.

Mr. WELLSTONE. Thank you.

Mr. President, I offer this amendment with Senator MIKULSKI. We just repealed the Boren provision, which was an effort to make sure that there was reasonable and adequate rates of reimbursement. This was for nursing homes, children's hospitals, group care for people with disabilities.

What we do in this amendment is a compromise, colleagues. We just simply require that States provide assurance to the Secretary that the rates will be actuarially sufficient to ensure adequate care.

We don't have any vague standard. This is an actuarially sufficiency standard. We are just saying to States, let's have some standard that you can say you have had an independent analysis done and that you are providing the resources so the children's hospitals and nursing homes and group homes can provide adequate care to very vulnerable seniors, children and the disabled.

Please vote for this compromise. We can't wipe out all of these standards.

Other than that, I do not feel strongly about it.

The PRESIDING OFFICER. Who rises in opposition?

The Senator from New Mexico.

Mr. DOMENICI. Would Senator ROTH like some time on this?

I will give you half the time.

Mr. ROTH. All right. Mr. President, I rise in opposition to this amendment. It raises again the same questions that were raised in respect to the Boren amendment. The history of the Boren amendment is a classic example of unintended consequences as its been used to increase costs of the program rather than control costs. The Governors are in opposition as well as the administration.

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

Mr. ROTH. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico has 30 seconds.

Mr. DOMENICI. Mr. President, the Senate has just overwhelmingly agreed we do not need the Boren amendment back on the horizon, and I view this as a new, similar burden on trying to get reasonably priced care. Perhaps it will be known in the future not as the Boren amendment but the Wellstone amendment. But believe you me, it will be just as egregiously antiefficient as the previous one, for there will be many, many court interpretations of the language that is now going to be inserted as a test of whether or not the charges are fair.

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

Mr. DOMENICI. I make a point of order that amendment violates section 310 of the Budget Act.

Mr. WELLSTONE. I move to waive that.

The PRESIDING OFFICER. Is there a sufficient second on the motion to waive? There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

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

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Ohio [Mr. GLENN] is necessarily absent.

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

The yeas and nays resulted—yeas 39, nays 60, as follows:

[Rollcall Vote No. 125 Leg.]

YEAS—39

Akaka	Durbin	Leahy
Baucus	Feinstein	Levin
Biden	Ford	Lieberman
Bingaman	Frist	Mikulski
Boxer	Graham	Moseley-Braun
Bumpers	Harkin	Murray
Byrd	Hollings	Reed
Chafee	Inouye	Reid
Cleland	Jeffords	Rockefeller
Conrad	Johnson	Sarbanes
Daschle	Kennedy	Torricelli
Dodd	Kerry	Wellstone
Dorgan	Lautenberg	Wyden

NAYS—60

Abraham	Feingold	McCain
Allard	Gorton	McConnell
Ashcroft	Gramm	Moynihan
Bennett	Grams	Murkowski
Bond	Grassley	Nickles
Breaux	Gregg	Robb
Brownback	Hagel	Roberts
Bryan	Hatch	Roth
Burns	Helms	Santorum
Campbell	Hutchinson	Sessions
Coats	Hutchison	Shelby
Cochran	Inhofe	Smith (NH)
Collins	Kempthorne	Smith (OR)
Coverdell	Kerrey	Snowe
Craig	Kohl	Specter
D'Amato	Kyl	Stevens
DeWine	Landrieu	Thomas
Domenici	Lott	Thompson
Enzi	Lugar	Thurmond
Faircloth	Mack	Warner

NOT VOTING—1

Glenn

The PRESIDING OFFICER. On this vote the yeas are 38; the nays are 61. 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.

The PRESIDING OFFICER. Without objection, the motion to reconsider is laid on the table.

The motion to lay on the table was agreed to.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

CHANGE OF VOTE

Mr. FRIST. Mr. President, on rollcall vote No. 125, I voted no. It was my intention to vote "yea". 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.)

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 497 WITHDRAWN

Mr. DOMENICI. Mr. President, amendment No. 497, of Senator KOHL, I move to withdraw that in his behalf.

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

Amendment No. 497 was withdrawn.

AMENDMENT NO. 498

Mr. DOMENICI. There are two amendments we are going to accept, and then we will proceed to a Kennedy education amendment. The first is a Harkin amendment, No. 498, on microdemonstration programs for welfare recipients under small business. Senator HARKIN, we have agreed to accept that. There is no objection on either side.

Mr. HARKIN. I appreciate that very much. I thank the chairman.

Mr. DOMENICI. I ask consent Senator BOND, chairman of the Small Business Committee, and Senator DOMENICI, be cosponsors.

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

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

The amendment (No. 498) was agreed to.

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

The PRESIDING OFFICER. Without objection, that motion is laid on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 491

Mr. DOMENICI. Senator BAUCUS has an amendment, No. 491, regarding cost-sharing provisions. We are prepared to accept that amendment at this time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, the chairman of the committee has adequately described the amendment. I very much appreciate that he will accept the amendment.

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

The amendment (No. 491) was agreed to.

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

The PRESIDING OFFICER. Without objection, the motion to reconsider is laid on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 490

Mr. DOMENICI. Now I believe amendment No. 490 by Senator KENNEDY is next.

The PRESIDING OFFICER. We shall not proceed to it until we have order. The Senator from Massachusetts is recognized for 1 minute.

Mr. DOMENICI. Will the Senator yield for a moment?

Mr. KENNEDY. Yes.

Mr. DOMENICI. Let me say for Senators' benefit, it looks like there are only three to four amendments left. So, if you can bear with us for just a little longer, I know this has been an ordeal. The only remaining thing after that would be the points of order, if any, that they might have on the Democrat side.

Mr. LAUTENBERG. We have a few.

Mr. DOMENICI. I yield the floor.

The PRESIDING OFFICER. If we could get the attention of the Senate again. If we could have conversations removed to the Cloakroom.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 40 seconds, 20 seconds to my colleague, Senator DODD. We offered this together.

This amendment is supported by the American Council on Education and virtually all of the higher education agencies and organizations, as well as the student organizations. Effectively, it will reduce tuitions by $1.4 billion over the next 5 years, and it is fully paid for by the reduction in terms of the guarantees to the guaranty agencies from 98 to 95 percent of the loans. There are offsets there. The process that we have done in terms of the offsets is virtually identical to what was done by the Republican initiative in the reconciliation bill. I hope it will be successful. It will reduce student tuitions by at least $70.

Mr. DODD. Mr. President, there are $26 billion outstanding in student loans. This amendment has two parts. It does away with the automatically required administrative cost allowance, which is unnecessary. That can be dealt with in the higher education bill. And it cuts in half the origination fees, 4 percent to 2. It is a very big issue for families.

The PRESIDING OFFICER. Who rises in opposition?

Mr. JEFFORDS. Mr. President, I rise in opposition to the amendment offered by the Senator from Massachusetts, [Mr. KENNEDY]. Briefly, this amendment would rewrite title VII of the reconciliation bill, which includes the student loan provisions reported by the Committee on Labor and Human Resources by a vote of 17 to 1.

I have two major reasons for opposing this amendment. First, it will harm students by destabilizing the guaranteed loan program; and, second, it addresses issues which belong in the debate of reauthorization of the Higher Education Act—not the budget reconciliation bill.

Let me be clear. Adoption of the Kennedy amendment will harm students—not help them. No one in the Senate is more committed to improving educational opportunities than I am. I have worked to strengthen student loan programs for over 22 years. If I honestly believed that this amendment was in the best interests of students, I would support it. It is precisely because of my commitment to the well being of students, however, that I so strongly oppose this amendment.

I want to take a few minutes to explain exactly why this amendment is not in the best interests of students or their families and why it was rejected when it was considered by the Labor Committee.

First of all, it is important to understand that the proposal which was approved by the committee was carefully crafted to preserve two viable student loan programs—the Federal Family Education Loan [FFEL] Program, guaranteed loans, and the Federal Direct Loan Program. This proposal respects the so-called truce between the two programs which was reflected in the portion of the budget agreement calling for a fair distribution of savings between the two programs.

The amendment of the Senator from Massachusetts breaks this truce. In the name of helping students, this amendment would drain such a substantial portion of funds from guaranty agencies that the Congressional Budget Office estimate of the amendment assumes the failure of many of these agencies.

The provisions approved by the committee already recapture $1 billion in guaranty agency reserve funds over the next 5 years. The recall of these funds is conducted in such a way that guaranty agencies with low reserves—Arkansas, Connecticut, Georgia, Illinois, Massachusetts, Minnesota, Nebraska, New Hampshire, Oklahoma, Texas, Vermont, Washington, and Wisconsin—will not be forced to close their doors to the students who depend upon them.

The Kennedy amendment would nearly double the savings expected from guaranty agencies—calling for an additional $960 million reduction over 5 years. Because the amendment eliminates any assurance that guaranty agencies will receive an administrative cost allowance [ACA] from section 458 funds, the reductions absorbed by guaranty agencies could well be even higher.

The guaranteed student loan program serves 80 percent of the institutions of higher education in this country and provides over 60 percent of total student loan volume. Yet, the Kennedy amendment makes no provision whatsoever for mitigating the severe disruption to student borrowers which will occur when agencies inevitably fail. If the goal is to enhance the direct loan program by crippling the guaranteed program, this amendment will be remarkably effective. However, if the goal truly is to help students, we should be working together in the appropriate forum—which is reauthorization, not reconciliation.

Moreover, I would note that the proposed reduction in the loan origination fee charged to students would not take effect until July 1998. There is no compelling reason to consider this provision outside of the current effort to reauthorize the Higher Education Act.

Before closing, I would like to take a few minutes to discuss the proposal

that was approved by the Labor Committee and provide the history and context for this debate.

The budget agreement approved by the Senate reflects the strong bipartisan support for education. The agreement provides for $35 billion in education related tax provisions, and assumes increased Federal support for special education, Head Start, and funding for literacy programs. The budget agreement supports providing an additional $7.6 billion for Pell grants allowing the maximum grant to grow from $2,700 to $3,000.

In addition, the subsidy for student loans is assumed to grow from $3.9 billion in 1998 to $4.1 billion in 2002. This will support growth in Federal student loan volume from $28.8 billion in 1998 to $35.8 billion in 2002. These provisions provide an unprecedented level of support for educational opportunity for students at all levels of education.

In order to accommodate this unprecedented level of support for students, the Senate budget resolution requires $1.792 billion in savings over 5 years from mandatory spending under the jurisdiction of the Committee on Labor and Human Resources.

The savings required by the agreement and submitted by the committee will not increase costs, reduce benefits, or limit access to loans for students and their families. In accordance with the budget agreement, this proposal attempts to maintain an equitable balance in the savings that are taken from the Federal Family Education Loan Program [FFEL] and the Federal Direct Lending Program [FDLP].

The budget submission approved by the committee achieves the required savings by recalling $1.028 billion in excess guaranty agency reserves, eliminating the $10 direct loan origination fee, and reducing the Department of Education's entitlement for the administration of the Federal direct lending program by $604 million. This language preserves a very delicate balance—it achieves major savings and preserves the viability of both loan programs, so that students will not be at risk of losing access to loans. The key provisions of title VII as reported by the Committee on Labor and Human Resources include:

A. ELIMINATION OF THE DIRECT LENDING LOAN ORIGINATION PAYMENT

This proposal repeals the provision authorizing the Federal payment of $10 per loan to schools and/or alternate originators who make direct loans. This repeal will provide five-year savings of $160 million.

B. RECALL OF EXCESS GUARANTY AGENCY RESERVES

The committee proposal requires the recall of $1.028 billion in reserves and requires each guaranty agency to deposit its share of the total excess reserves into a newly created restricted account in annual payments over the next five years.

C. REDUCTIONS IN SECTION 458 EXPENDITURES

Section 458 of the Higher Education Act provides funds to the Secretary of Education for the administrative expenses associated with the direct lending program as well as the administrative cost allowance paid to guaranty agencies for administration of FFEL programs. The committee proposal reduces section 458 expenditures in conformity with the budget agreement resulting in savings of $603 million over 5 years. The Department will continue to receive over $3.3 billion in this account over the next 5 years.

In order to ensure that these reductions are not redirected from direct lending to the FFEL program and to ensure that an equitable balance in savings is maintained between the two programs, the committee included a provision that reaffirms the Department of Education's obligation to continue to pay the administrative cost allowance to the guaranty agencies. This authority is capped at $170 million in each of fiscal years 1998 and 1999 and at $150 million in fiscal years 2000, 2001, and 2002.

In summary, these provisions reflect a commitment to preserving two viable student loan programs. Second, they reflect the belief that substantive changes in student aid policy should not be included within reconciliation but should be fully and carefully considered as part our comprehensive effort to reauthorize the Higher Education Act. Consistent with these principles, our proposal meets our budget instruction, preserves two loan programs, and retains the framework of the budget agreement. It deserves the support of the full Senate.

Finally, let me say that we are here today due to the budget agreement reached between the President and the leadership of the House and Senate. Whatever the disagreements may be about specific details, there is broad support for this agreement and its objectives. That is illustrated by the 17-to-1 vote for the Labor Committee's submission and by the similar margins of support for the proposals reported by other committees.

Certainly, the agreement is a series of compromises. Implicit in compromise is the fact that neither party got everything it wanted. In the student loan area, the core compromise was that a truce was to be declared in the battle between the Federal Family Education Loan Program—guaranteed loans—and the Federal Direct Loan Program. The approximately $1.8 billion in savings was to be equitably divided between the two programs.

The proposal reported by the committee honors that compromise: 57 percent of the savings are made in the guaranteed loan program and the remaining 43 percent come from direct lending. The amendment of the Senator from Massachusetts would destroy that balance.

When filling in the detail of a broad compromise, there is always the urge to push further toward one's preference. What the Senator is attempting to do is therefore understandable. But, we need to recognize the amendment for what it is. I urge my colleagues to join me in opposing it.

Mr. DOMENICI. I thank the Senator, the chairman of the committee on Labor, Health and Human Resources. The chairman opposes this.

Mr. President, the Kennedy amendment is a substitute to the Labor Committee's title. It violates the bipartisan agreement that we made with the President and with Democrats and Republicans. It is not germane to this bill before us. It violates the Byrd rule because it increases spending in the year 2002 and thereafter without any offsets. The Kennedy amendment reduces the student loan origination fees, and is offset by significant reductions in revenues to the lenders and guaranty agencies participating in student loan programs.

With that, I make a point of order that the Kennedy amendment is a violation of the Budget Act and the Byrd amendment.

Mr. DODD. I move to waive.

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.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

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. Are there any Senators in the Chamber who desire to change their vote?

The yeas and nays resulted, yeas 43, nays 57, as follows:

[Rollcall Vote No. 126 Leg.]

YEAS—43

Akaka	Feingold	Lieberman
Baucus	Feinstein	Mikulski
Biden	Ford	Moseley-Braun
Bingaman	Glenn	Moynihan
Boxer	Graham	Murray
Breaux	Harkin	Reed
Bryan	Hollings	Reid
Bumpers	Inouye	Robb
Byrd	Kennedy	Rockefeller
Cleland	Kerrey	Sarbanes
Conrad	Kerry	Torricelli
Daschle	Kohl	Wellstone
Dodd	Lautenberg	Wyden
Dorgan	Leahy	
Durbin	Levin	

NAYS—57

Abraham	Coverdell	Gregg
Allard	Craig	Hagel
Ashcroft	D'Amato	Hatch
Bennett	DeWine	Helms
Bond	Domenici	Hutchinson
Brownback	Enzi	Hutchison
Burns	Faircloth	Inhofe
Campbell	Frist	Jeffords
Chafee	Gorton	Johnson
Coats	Gramm	Kempthorne
Cochran	Grams	Kyl
Collins	Grassley	Landrieu

Lott	Roberts	Snowe
Lugar	Roth	Specter
Mack	Santorum	Stevens
McCain	Sessions	Thomas
McConnell	Shelby	Thompson
Murkowski	Smith (NH)	Thurmond
Nickles	Smith (OR)	Warner

The PRESIDING OFFICER. On this vote, the yeas are 43, the nays are 57. 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. DOMENICI. Mr. President, I move to reconsider the vote by which the motion was rejected.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 490

Mr. SPECTER. Mr. President, I want to address my vote on the Kennedy-Dodd amendment regarding savings to be generated from direct and guaranteed loan programs. Although, I have ardently supported efforts to increase Pell grants and improve the ability of millions of American families to afford a college education for their children, the Kennedy-Dodd amendment would have disrupted the guaranteed student loan program substantially. It would have upset the balanced approach in the budget agreement to derive savings equitably from both direct and guaranteed loan programs.

I am advised that the Kennedy-Dodd amendment would create undue hardship on student borrowers by adversely impacting guaranteed lenders, which would lose part of their loan origination fees.

I look forward to working with Chairman JEFFORDS, Senator KENNEDY, and Senator DODD as the Senate considers these issues in the context of the Higher Education Act reauthorization later in the 105th Congress.

MOTION TO WAIVE THE BUDGET ACT, WITHDRAWN

Mr. DOMENICI. Mr. President, I ask that the motion of the Senator from Texas to waive the Budget Act with respect to the point of order lodged by Senator CONRAD last night be withdrawn.

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

Mr. DOMENICI. Senator CONRAD had lodged the point of order.

The PRESIDING OFFICER. The regular order is the amendment by Senator MCCAIN.

Mr. DOMENICI. We have to complete business on this. We have withdrawn the waiver.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

POINT OF ORDER

Mr. CONRAD. Mr. President, I make a point of order that section 5822 of the bill violates section 313(b)(1)(D) of the Budget Act.

The PRESIDING OFFICER. The point of order is sustained.

Mr. DOMENICI. And the amendment falls?

The PRESIDING OFFICER. That is correct.

AMENDMENT NO. 474

Mr. DOMENICI. Mr. President, I believe the next order of business is Senator MCCAIN's amendment. That is amendment No. 474. That is McCain-Lott-Domenici.

AMENDMENT NO. 474, AS MODIFIED

Mr. DOMENICI. I ask unanimous consent that I be permitted to modify that amendment by adding just the following words: ". . . including emergency auto service by nonprofit organizations, that . . ." I send the modification to the desk, and I understand the minority has no objection to the modification.

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

The amendment, as modified, is as follows:

On page 92, beginning with line 6, strike through line 24 on page 128 and insert the following:

SEC. 3001. SPECTRUM AUCTIONS.

(a) EXTENSION AND EXPANSION OF AUCTION AUTHORITY.—

(1) IN GENERAL.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(A) by striking paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) GENERAL AUTHORITY.—If mutually exclusive applications are accepted for any initial license or construction permit that will involve an exclusive use of the electromagnetic spectrum, then, except as provided in paragraph (2), the Commission shall grant the license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection. The Commission, subject to paragraphs (2) and (7) of this subsection, also may use auctions as a means to assign spectrum when it determines that such an auction is consistent with the public interest, convenience, and necessity, and the purposes of this Act.

"(2) EXCEPTIONS.—The competitive bidding authority granted by this subsection shall not apply to a license or construction permit the Commission issues—

"(A) for public safety services, including private internal radio services used by State and local governments and non-government entities, including Emergency Auto Service by non-profit organizations, that

"(i) are used to protect the safety of life, health, or property; and

"(ii) are not made commercially available to the public;

"(B) for public telecommunications services, as defined in section 397(14) of this Act, when the license application is for channels reserved for noncommercial use;

"(C) for spectrum and associated orbits used in the provision of any communications within a global satellite system;

"(D) for initial licenses or construction permits for new digital television service given to existing terrestrial broadcast licensees to replace their current television licenses;

"(E) for terrestrial radio and television broadcasting when the Commission determines that an alternative method of resolving mutually exclusive applications serves the public interest substantially better than competitive bidding; or

"(F) for spectrum allocated for unlicensed use pursuant to part 15 of the Commission's regulations (47 C.F.R. part 15), if the competitive bidding for licenses would interfere with operation of end-user products permitted under such regulations.";

(B) by striking "1998" in paragraph (11) and inserting "2007"; and

(C) by inserting after paragraph (13) the following:

"(14) OUT-OF-BAND EFFECTS.—The Commission and the National Telecommunications and Information Administration shall seek to create incentives to minimize the effects of out-of-band emissions to promote more efficient use of the electromagnetic spectrum. The Commission and the National Telecommunications and Information Administration also shall encourage licensees to minimize the effects of interference."

(2) CONFORMING AMENDMENT.—Subsection (i) of section 309 of the Communications Act of 1934 is repealed.

(b) AUCTION OF 45 MEGAHERTZ LOCATED AT 1,710–1,755 MEGAHERTZ.—

(1) IN GENERAL.—The Commission shall assign by competitive bidding 45 megahertz located at 1,710–1,755 megahertz no later than December 31, 2001, for commercial use.

(2) FEDERAL GOVERNMENT USERS.—Any Federal government station that, on the date of enactment of this Act, is assigned to use electromagnetic spectrum located in the 1,710–1,755 megahertz band shall retain that use until December 31, 2003, unless exempted from relocation.

(c) COMMISSION TO MAKE ADDITIONAL SPECTRUM AVAILABLE BY AUCTION.—

(1) IN GENERAL.—The Federal Communications Commission shall complete all actions necessary to permit the assignment, by September 30, 2002, by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)), of licenses for the use of bands of frequencies currently allocated by the Commission that—

(A) in the aggregate span not less than 55 megahertz;

(B) are located below 3 gigahertz; and

(C) as of the date of enactment of this Act, have not been—

(i) designated by Commission regulation for assignment pursuant to section 309(j);

(ii) identified by the Secretary of Commerce pursuant to section 113 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923); or

(iii) allocated for Federal Government use pursuant to section 305 of the Communications Act of 1934 (47 U.S.C. 305).

(2) CRITERIA FOR REASSIGNMENT.—In making available bands of frequencies for competitive bidding pursuant to paragrph (1), the Commission shall—

(A) seek to promote the most efficient use of the electromagnetic spectrum;

(B) consider the cost of incumbent licensees of relocating existing uses to other bands of frequencies or other means of communication;

(C) consider the needs of public safety radio services;

(D) comply with the requirements of international agreements concerning spectrum allocations; and

(E) coordinate with the Secretary of Commerce when there is any impact on Federal Government spectrum use.

(3) NOTIFICATION TO THE SECRETARY OF COMMERCE.—The Commission shall attempt

to accommodate incumbent licenses displaced under this section by relocating them to other frequencies available to the Commission. The Commission shall notify the Secretary of Commerce whenever the Commission is not able to provide for the effective relocation of an incumbent licensee to a band of frequencies available to the Commission for assignment. The notification shall include—

(A) specific information on the incumbent licensee;

(B) the bands the Commission considered for relocation of the licensee; and

(C) the reasons the incumbent cannot be accommodated in these bands.

(4) REPORT TO THE SECRETARY OF COMMERCE.—

(A) TECHNICAL REPORT.—The Commission in consultation with the National Telecommunications and Information Administration, shall submit a detailed technical report to the Secretary of Commerce setting forth—

(i) the reasons the incumbent licensees described in paragraph (5) could not be accommodated in existing non-government spectrum; and

(ii) the Commission's recommendations for relocating those incumbents.

(B) NTIA USE OF REPORT.—The National Telecommunications and Information Administration shall review this report when assessing whether a commercial licensee can be accommodated by being reassigned to a frequency allocated for government use.

(d) INDENTIFICATION AND REALLOCATION OF FREQUENCIES.—

(1) IN GENERAL.—Section 113 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended by adding at the end thereof the following:

"(f) ADDITIONAL REALLOCATION REPORT.—If the Secretary receives a report from the Commission pursuant to section 3001(c)(6) of the Balanced Budget Act of 1997, the Secretary shall submit to the President, the Congress, and the Commission a report with the Secretary's recommendations.

"(g) REIMBURSEMENT OF FEDERAL SPECTRUM USERS FOR RELOCATION COSTS.—

"(1) IN GENERAL.—

"(A) ACCEPTANCE OF COMPENSATION AUTHORIZED.—In order to expedite the efficient use of the electromagnetic spectrum, and notwithstanding section 3302(b) of title 31, United States Code, any Federal entity that operates a Federal Government station that has been identified by NTIA for relocation may accept payment, including in-kind compensation and shall be reimbursed if required to relocate by the service applicant, provider, licensee, or representative entering the band as a result of a license assignment by the Commission or otherwise authorized by Commission rules.

"(B) DUTY TO COMPENSATE OUSTED FEDERAL ENTITY.—Any such service applicant, provider, licensee, or representative shall compensate the Federal entity in advance for relocating through monetary or in-kind payment for the cost of relocating the Federal entity's operations from one or more electromagnetic Spectrum frequencies to any other frequency or frequencies, or to any other telecommunications transmission media.

"(C) COMPENSABLE COSTS.—Compensation shall include, but not be limited to, the costs of any modification, replacement, or reissuance of equipment, facilities, operating manuals, regulations, or other relocation expenses incurred by that entity.

"(D) DISPOSITION OF PAYMENTS.—Payments, other than in-kind compensation, pursuant to this section shall be deposited by electronic funds transfer in a separate agency account or accounts which shall be used to pay directly the costs of relocation, to repay or make advances to appropriations or funds which do or will initially bear all or part of such costs, or to refund excess sums when necessary, and shall remain available until expended.

"(E) APPLICATION TO CERTAIN OTHER RELOCATIONS.—The provisions of this paragraph also apply to any Federal entity that operates a Federal Government station assigned to use electromagnetic spectrum identified for reallocation under subsection (a), if before the date of enactment of the Balanced Budget Act of 1997 the Commission has not identified that spectrum for service or assigned licenses or otherwise authorized service for that spectrum.

"(2) PETITIONS FOR RELOCATION.—Any person seeking to relocate a Federal Government station that has been assigned a frequency within a band allocated for mixed Federal and non-Federal use under this Act shall submit a petition for relocation to NTIA. The NTIA shall limit or terminate the Federal Government station's operating license within 6 months after receiving the petition if the following requirements are met:

"(A) The proposed relocation is consistent with obligations undertaken by the United States in international agreements and with United States national security and public safety interests.

"(B) The person seeking relocation of the Federal Government station has guaranteed to defray entirely, through payment in advance, advance in-kind payment of costs, or a combination of payment in advance and advance in-kind payment, all relocation costs incurred by the Federal entity, including, but not limited to, all engineering, equipment, site acquisition and construction, and regulatory fee costs.

"(C) The person seeking relocation completes all activities necessary for implementing the relocation, including construction of replacement facilities (if necessary and appropriate) and identifying and obtaining on the Federal entity's behalf new frequencies for use by the relocated Federal Government station (if the station is not relocating to spectrum reserved exclusively for Federal use).

"(D) Any necessary replacement facilities, equipment modifications, or other changes have been implemented and tested by the Federal entity to ensure that the Federal Government station is able to accomplish successfully its purposes including maintaining communication system performance.

"(E) The Secretary has determined that the proposed use of any spectrum frequency band to which a Federal entity relocates its operations is suitable for the technical characteristics of the band and consistent with other uses of the band. In exercising authority under this subparagraph, the Secretary shall consult with the Secretary of Defense, the Secretary of State, and other appropriate Federal officials.

"(3) RIGHT TO RECLAIM.—If within one year after the relocation of a Federal Government station, the Federal entity affected demonstrates to the Secretary and the Commission that the new facilities or spectrum are not comparable to the facilities or spectrum from which the Federal Government station was relocated, the person who sought the relocation shall take reasonable steps to remedy any defects or pay the Federal entity for the costs of returning the Federal Government station to the electromagnetic spectrum from which the station was relocated.

"(h) FEDERAL ACTION TO EXPEDITE SPECTRUM TRANSFER.—Any Federal Government station which operates on electromagnetic spectrum that has been identified for reallocation under this Act for mixed Federal and non-Federal use in any reallocation report under subsection (a), to the maximum extent practicable through the use of subsection (g) and any other applicable law, shall take prompt action to make electromagnetic spectrum available for use in a manner that maximizes efficient use of the electromagnetic spectrum.

"(i) FEDERAL SPECTRUM ASSIGNMENT RESPONSIBILITY.—This section does not modify NTIA's authority under section 103(b)(2)(A) of this Act.

"(j) DEFINITIONS.—As used in this section—

"(1) The term 'Federal entity' means any department, agency, or instrumentality of the Federal Government that utilizes a Government station license obtained under section 305 of the 1934 Act (47 U.S.C. 305);

"(2) the term 'digital television services' means television services provided using digital technology to enhance audio quality and video resolution, as further defined in the Memorandum Opinion, Report, and Order of the Commission entitled 'Advanced Television Systems and Their Impact Upon the Existing Television Service,' MM Docket No. 87-268 and any subsequent FCC proceedings dealing with digital television; and

"(3) the term 'analog television licenses' means licenses issued pursuant to 47 CFR 73.682 et seq.".

(2) Section 114(a) of that Act (47 U.S.C. 924(a)) is amended by striking "(a) or (d)(1)" and inserting "(a), (d)(1), or (f)".

(e) IDENTIFICATION AND REALLOCATION OF AUCTIONABLE FREQUENCIES.—

(1) SECOND REPORT REQUIRED.—Section 113(a) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(a)) is amended by inserting "and within 6 months after the date of enactment of the Balanced Budget Act of 1997" after "Act of 1993".

(2) IN GENERAL.—Section 113(b) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(b)) is amended—

(A) by striking the caption of paragraph (1) and inserting "INITIAL REALLOCATION REPORT.—";

(B) by inserting "in the initial report required by subsection (a)" after "recommend for reallocation" in paragraph (1);

(C) by inserting "or (3)" after "paragraph (1)" each place it appears in paragraph (2); and

(D) by adding at the end thereof the following:

"(3) SECOND REALLOCATION REPORT.—The Secretary shall make available for reallocation a total of 20 megahertz in the second report required by subsection (a), for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), that is located below 3 gigahertz and that meets the criteria specified in paragraphs (1) through (5) of subsection (a).".

(3) ALLOCATION AND ASSIGNMENT.—Section 115 of that Act (47 U.S.C. 925) is amended—

(A) by striking "the report required by section 113(a)"; in subsection (b) and inserting "the initial reallocation report required by section 113(a)"; and

(B) by adding at the end thereof the following:

"(c) ALLOCATION AND ASSIGNMENT OF FREQUENCIES IDENTIFIED IN THE SECOND ALLOCATION REPORT.—

"(1) PLAN.—Within 12 months after it receives a report from the Secretary under section 113(f) of this Act, the Commission shall—

"(A) submit a plan, prepared in coordination with the Secretary of Commerce, to the President and to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Commerce, for the allocation and assignment under the 1934 Act of frequencies identified in the report; and

"(B) implement the plan.

"(2) CONTENTS.—The plan prepared by the Commission under paragraph (1) shall consist of a schedule of reallocation and assignment of those frequencies in accordance with section 309(j) of the 1934 Act in time for the assignment of those licenses or permits by September 30, 2002.".

SEC. 3002. DIGITAL TELEVISION SERVICES.

Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended by adding at the end thereof the following:

"(15) AUCTION OF RECAPTURED BROADCAST TELEVISION SPECTRUM AND POTENTIAL DIGITAL TELEVISION LICENSE FEES.—

"(A) LIMITATIONS ON TERMS OF TERRESTRIAL TELEVISION BROADCAST LICENSES.—

"(i) A television license that authorizes analog television services may not be renewed to authorize such services for a period that extends beyond December 31, 2006. The Commission shall extend or waive this date for any station in any television market unless 95 percent of the television households have access to digital local television signals, either by direct off-air reception or by other means.

"(ii) A commercial digital television license that is issued shall expire on September 30, 2003. A commercial digital television license shall be re-issued only subject to fulfillment of the licensee's obligations under subparagraph (C).

"(iii) No later than December 31, 2001, and every 2 years thereafter, the Commission shall report to Congress on the status of digital television conversion in each television market. In preparing this report, the Commission shall consult with other departments and agencies of the Federal government. The report shall contain the following information:

"(I) Actual consumer purchases of analog and digital television receivers, including the price, availability, and use of conversion equipment to allow analog sets to receive a digital signal.

"(II) The percentage of television households in each market that has access to digital local television signals as defined in paragraph (a)(1), whether such access is attained by direct off-air reception or by some other means.

"(III) The cost to consumers of purchasing digital television receivers (or conversion equipment to prevent obsolescence of existing analog equipment) and other related changes in the marketplace, such as increases in the cost of cable converter boxes.

"(B) SPECTRUM REVERSION AND RESALE.—

"(i) The Commission shall—

"(I) ensure that, as analog television licenses expire pursuant to subparagraph (A)(i), each broadcaster shall return electromagnetic spectrum according to the Commission's direction; and

"(II) reclaim and organize the electromagnetic spectrum in a manner to maximize the deployment of new and existing services.

"(ii) Licensees for new services occupying electromagnetic spectrum previously used for the broadcast of analog television shall be selected by competitive bidding. The Commission shall start the competitive bidding process by July 1, 2001, with payment pursuant to the competitive bidding rules established by the Commission. The Commission shall report the total revenues from the competitive bidding by January 1, 2002.

"(D) DEFINITIONS.—As used in this paragraph—

"(i) the term 'digital television services' means television services provided using digital technology to enhance audio quality and video resolution, as further defined in the Memorandum Opinion, Report, and Order of the Commission entitled 'Advanced Television Systems and Their Impact Upon the Existing Television Service,' MM Docket No. 87–268 and any subsequent Commission proceedings dealing with digital television; and

"(ii) the term 'analog television licenses' means licenses issued pursuant to 47 CFR 73.682 et seq. .".

SEC. 3003. ALLOCATION AND ASSIGNMENT OF NEW PUBLIC SAFETY AND COMMERCIAL LICENSES.

(a) IN GENERAL.—The Federal Communications Commission, not later than January 1, 1998, shall allocate from electromagnetic spectrum between 746 megahertz and 806 megahertz—

(1) 24 megahertz of that spectrum for public safety services according to terms and conditions established by the Commission, in consultation with the Secretary of Commerce and the Attorney General; and

(2) 36 megahertz of that spectrum for commercial purposes to be assigned by competitive bidding.

(b) ASSIGNMENT.—The Commission shall—

(1) commence assignment of the licenses for public safety created pursuant to subsection (a) no later than September 30, 1998; and

(2) commence competitive bidding for the commercial licenses created pursuant to subsection (a) no later than March 31, 1998.

(c) LICENSING OF UNUSED FREQUENCIES FOR PUBLIC SAFETY RADIO SERVICES.—

(1) USE OF UNUSED CHANNELS FOR PUBLIC SAFETY.—It shall be the policy of the Federal Communications Commission, notwithstanding any other provision of this Act or any other law, to waive whatever licensee eligibility and other requirements (including bidding requirements) are applicable in order to permit the use of unassigned frequencies for public safety purposes by a State or local government agency upon a showing that—

(A) no other existing satisfactory public safety channel is immediately available to satisfy the requested use;

(B) the proposed use is technically feasible without causing harmful interference to existing stations in the frequency band entitled to protection from such interference under the rules of the Commission; and

(C) use of the channel for public safety purposes is consistent with other existing public safety channel allocations in the geographic area of proposed use.

(2) APPLICABILITY.—Paragraph (1) shall apply to any application—

(A) is pending before the Commission on the date of enactment of this Act;

(B) was not finally determined under section 402 or 405 of the Communications Act of 1934 (47 U.S.C. 402 or 405) on May 15, 1997; or

(C) is filed after May 15, 1997.

(D) PROTECTION OF BROADCAST TV LICENSEES DURING DIGITAL TRANSITION.—Public safety and commercial licenses granted pursuant to this subsection—

(1) shall enjoy flexibility in use, subject to—

(A) interference limits set by the Commission at the boundaries of the electromagnetic spectrum block and service area; and

(B) any additional technical restrictions imposed by the Commission to protect full-service analog and digital television licenses during a transition to digital television;

(2) may aggregate multiple licenses to create larger spectrum blocks and service areas;

(3) may disaggregate or partition licenses to create smaller spectrum blocks or service areas; and

(4) may transfer a license to any other person qualified to be a licensee.

(e) PROTECTION OF PUBLIC SAFETY LICENSEES DURING DIGITAL TRANSITION.—The Commission shall establish rules insuring that public safety licensees using spectrum reallocated pursuant to subsection (a)(1) shall not be subject to harmful interference from television broadcast licensees.

(f) DIGITAL TELEVISION ALLOTMENT.—In assigning temporary transitional digital licenses, the Commission shall—

(1) minimize the number of allotments between 746 and 806 megahertz and maximize the amount of spectrum available for public safety and new services;

(2) minimize the number of allotments between 698 and 746 megahertz in order to facilitate the recovery of spectrum at the end of the transition;

(3) consider minimizing the number of allotments between 54 and 72 megahertz to facilitate the recovery of spectrum at the end of the transition; and

(4) develop an allotment plan designed to recover 78 megahertz of spectrum to be assigned by competitive bidding, in addition to the 60 megahertz identified in paragraph (a) of this subsection.

(g) INCUMBENT BROADCAST LICENSEES.—Any person who holds an analog television license or a digital television license between 746 and 806 megahertz—

(1) may not operate at that frequency after the date on which the digital television services transition period terminates, as determined by the Commission; and

(2) shall surrender immediately the license or permit to construct pursuant to Commission rules.

(h) DEFINITIONS.—For purposes of this section—

(1) COMMISSION.—The term "Commission" means the Federal Communications Commission.

(2) DIGITAL TELEVISION (DTV) SERVICE.—The term "digital television (DTV) service" means terrestrial broadcast services provided using digital technology to enhance audio quality and video resolution, as further defined in the Memorandum Opinion, Report, and Order of the Commission entitled "Advanced Television Systems and Their Impact Upon the Existing Television Service," MM Docket No. 87–268, or subsequent findings of the Commission.

(3) DIGITAL TELEVISION LICENSE.—The term "digital television license" means a full-service license issued pursuant to rules adopted for digital television service.

(4) ANALOG TELEVISION LICENSE.—The term "analog television license" means a full-service license issued pursuant to 47 CFR 73.682 et seq.

(5) PUBLIC SAFETY SERVICES.—The term "public safety services" means services whose sole or principal purpose is to protect the safety of life, health, or property.

(6) SERVICE AREA.—The term "service area" means the geographic area over which a licensee may provide service and is protected from interference.

(7) SPECTRUM BLOCK.—The term "spectrum block" means the range of frequencies over which the apparatus licensed by the Commission is authorized to transmit signals.

SEC. 3004. FLEXIBLE USE OF ELECTROMAGNETIC SPECTRUM.

Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end thereof the following:

"(y) Shall allocate electromagnetic spectrum so as to provide flexibility of use, except—

"(1) as required by international agreements relating to global satellite systems or other telecommunication services to which the United States is a party;

"(2) as required by public safety allocations;

"(3) to the extent that the Commission finds, after notice and an opportunity for public comment, that such an allocation would not be in the public interest;

"(4) to the extent that flexible use would retard investment in communications services and systems, or technology development thereby lessening the value of the electromagnetic spectrum; or

"(5) to the extent that flexible use would result in harmful interference among users.".

Mr. DOMENICI. 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. 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, this amendment is acceptable to the other side. It is the best we can do to try to achieve spectrum consistency with the Budget Act, and even with this amendment, we are somewhat short.

Senator MCCAIN does not insist on speaking. If he does, we yield to him right now.

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

Mr. BYRD. Mr. President, what does the amendment do?

Mr. DOMENICI. Mr. President, this substitute amendment for title III offered by Senator MCCAIN, Senator LOTT, and myself, will help the committee get $4 billion closer toward its instruction on spectrum fees, and it does this without any fees. It has been approved by the Commerce Committee on both sides, Democrat and Republican, and there is no objection from the minority side with reference to this amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 474, as modified.

The amendment (No. 474), as modified, was agreed to.

Mr. LAUTENBERG. 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. DOMENICI. Can I ask the minority, there is a D'Amato amendment we are asking if you can clear. We are getting close to the end here.

Mr. LAUTENBERG. We will accept that.

AMENDMENT NO. 502

Mr. DOMENICI. I ask the D'Amato amendment No. 502, Medicare antiduplication provisions, be called up. We have agreed with the minority and they with us that this is acceptable.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 502) was agreed to.

Mr. LAUTENBERG. 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. DOMENICI. Mr. President, according to our records, we have four amendments, but they are all waiting to see what the managers' amendment includes in it. If it includes the proper subject matter, then there will not be a presentation of those four amendments. So I think the managers are working on that, and maybe we need a little bit of time while they finish it, and the four Senators can look at it to see if it takes care of their concerns.

The PRESIDING OFFICER. The regular order is the Kennedy amendment No. 492.

Mr. DOMENICI. Yes, that is correct. Senator KENNEDY desires to withhold his amendment to see what the managers' amendment does; is that correct?

Mr. LAUTENBERG. Yes.

Mr. DOMENICI. Senator KERRY's amendment No. 496. I gather that you want to wait.

Mr. LAUTENBERG. Senator KERRY wants to wait and see what the managers' amendment does.

Mr. DOMENICI. And Senator ROCKEFELLER's amendment No. 503, we believe the same holds, and Senator KENNEDY's amendment regarding part B.

Might I discuss a few matters with the ranking minority member? I believe when we finish this, we will be finished with amendments. The only thing I can imagine left would be points of order to be lodged by anyone. We have none on our side.

Mr. LAUTENBERG. Mr. President, we have five in total that we will be happy to show the majority. I think Senator MURRAY has a point of order, and then we have the four remaining.

Mr. DOMENICI. I wonder if the time would be best spent if you let us see those. Maybe we can dispose of those and maybe agree we not have any votes, depending on what they are.

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

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

AMENDMENT NO. 506

Mr. DOMENICI. I understand that the chairman of the Finance Committee is ready with the managers' amendment, and I yield the floor. The amendment is numbered 506.

The PRESIDING OFFICER. The Senator from Delaware.

MODIFICATION TO AMENDMENT NO. 506

Mr. ROTH. Mr. President, I ask unanimous consent that amendment No. 506, the managers' amendment, be called up, and I send a modification to the desk.

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

Under a previous order, the Senator has a right to modify his amendment, and the amendment is so modified.

The modification follows:

At the end of the amendment, add the following:

On page 774, strike lines 13 through 15, and insert the following:

"(A) for fiscal year 1999, 92 percent;

"(B) for fiscal year 2000, 85 percent; and

"(C) for fiscal years 2001 and 2002, 80 percent.

On page 775, strike lines 21 through 25 and insert the following:

"(C) STATES WITH STATE 1995 DSH SPENDING AMOUNTS ABOVE 3 PERCENT.—In the case of any State with a State 1995 DSH spending amount that is more than 3 percent of the Federal medical

On page 779, line 10, strike "2000" and insert "2001".

On page 779, line 11, strike "2001" and insert "2002".

On page 779, line 10, strike "2002" and insert "2003 and thereafter".

Mr. ROTH. Mr. President, the managers' amendment with the modification has been approved on both sides of the aisle. I urge its adoption.

Mr. BYRD. Mr. President, could someone explain what is in the managers' amendment?

Mr. ROTH. Yes, I am happy to explain to my distinguished friend from West Virginia. It includes two Medicare hospital-related provisions. The first is a modification to the Medicare PPS, exempt hospital payments, and the second is a hospital wage index classification.

The second makes three additions to the Medicaid provisions. These include a Grassley amendment that was adopted in committee on the effect of managed care on individuals with special needs, a clarification on the definition of provider taxes, and continuation of certain 1115 waivers. There are four provisions on welfare, clarification of the language on SSI, and Medicaid benefits of certain Indians. It makes a conforming amendment on work activities, and it confirms the maintenance-of-effort requirement to the existing welfare block grant. It also requires that half of the payments for job placement be provided after an individual has been placed in the work force for at least 6 months.

Finally, the modification to the managers' amendment also modifies the formula for achieving savings in the Disproportionate Share Hospital Program. The amendment provides a smoother transition for the States and delays the restrictions on payment to mental health facilities.

As I said, Mr. President, all these amendments have been cleared by both sides of the aisle. I urge their adoption.

Mr. MOYNIHAN. Mr. President, may I simply affirm the statement of the distinguished chairman. These are agreed to on both sides of the aisle.

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

Mr. BYRD. Mr. President, I am not on the Budget Committee, I am not on the Finance Committee, but I do have a right to have a little knowledge of what we are voting on. By my not being a member of those committees—it might very well be stated as to what we are voting on—I may yet not understand it, but there are Senators in this body who can understand. It seems to me we are going a little fast.

Is this amendment divisible?

The PRESIDING OFFICER. In the opinion of the Chair, the amendment would be divisible.

Mr. BYRD. How many divisions would there be?

The PRESIDING OFFICER. There would be numerous divisions because the amendment hits the bill in a number of diverse places. We are attempting to assert the exact number.

The Senator from West Virginia is recognized.

Mr. BYRD. I yield to the distinguished Senator.

Mr. DOMENICI. Might I say to the distinguished Senator from West Virginia, I think you have been in this position and the position of this chairman many, many times. I do not know whether we ever have a chance to be in exactly this position when we have a reconciliation bill like this.

I might say, I think this amendment fits together a lot of concerns and fulfills a lot of concerns about the bill by many, many Senators. I hope the Senator would not ask for its division, but rather ask us to spend more time discussing it, which I believe, even though the consent agreement says a minute on a side, I think you might be clearly within your rights to say: This is a managers' amendment. Could we have some additional time? Certainly I would not object.

I objected one time in my life to giving the distinguished Senator from West Virginia additional time when time had run out, and I vividly remembered that for at least 5 years. It seemed like every time you looked at me it was reminding me that I had jumped up and objected to your getting time, additional time. I have never done that again, so I would not do it now.

I just wonder if that makes any sense to my friend from West Virginia.

Mr. BYRD. Mr. President, let me attempt to respond to the distinguished Senator.

I have a sense of what my responsibility is. I do not know what is in the managers' amendment. I have understood, in listening here, that there are various Senators who have amendments which are qualified and which are listed that they will call up unless the managers' amendment is satisfactory to them in respect to their several amendments.

Now, if each amendment is called up, we at least get 2 minutes for an explanation. We get no explanation here of what is in this managers' amendment. It is not my desire to hold up action on this measure. It is somewhat embarrassing to me to have to stand and admit that I don't know what is in this amendment. I have voted on amendments today that I had very, very slender knowledge as to what I was voting on.

I am not blaming anyone for this. I am not saying this to be critical of anyone. But I am concerned that here we are, before the American people, and it should be obvious to anyone who is viewing these actions that we are taking that many of us do not know what we are doing, what we are voting on, and these are very complex amendments. This is a very complex bill.

We are at a great disadvantage because we have only 20 hours on a reconciliation measure. I tried last year to get 50 hours on a reconciliation bill, and I believe I got a majority of votes, but I believe I lost because it ran afoul of the Byrd rule. Therefore, it required 60 votes. Thank heavens for the Byrd rule.

But, Mr. President, I do have a duty to my own conscience, if to no one else, and I am pretty sure I have a great duty to my constituents, to try to find out what's in the amendment we are about to vote on. In doing so, I am holding up the measure, I am delaying action on this measure. I am very well aware of it.

I know the burdens that are upon the leadership, the joint leadership. I know the burdens that are on the managers of this bill. I, at least, have some idea. They have done well. They have had heavy burdens. They have spent hours, they have spent hours when I was at home with my wife, Lady Byrd, and my little dog, Billy Byrd. But they have spent hours. I saw them working here last night. I cannot understand a great deal in watching that tube as to what is at issue here.

So I am considering asking for a division here. I think we have to shock this Senate one way or another into a realization that we have to change the rules with regard to reconciliation so that Members will have more time than we have. Here we are, we have run out of time, yet Senators have amendments that they want votes on. It is by unanimous consent that we have 2 minutes of explanation between each amendment. That is no way to operate.

I cannot help it, Mr. DOMENICI cannot help it, Mr. LAUTENBERG cannot help it, the two leaders can't help it. That's the rule, 20 hours.

There are Senators who insist on having votes on their amendments, and I think they have a right to have votes on their amendment. We are constrained by a rule here that just does not make sense. It may have made sense at one time. It does not anymore. We are living at a different time when we are under severe budget constraints and when the administration and the leadership enter into some kind of agreement of which I am not a part and about which I know little, other than what I read in the newspaper.

So I have taken the floor here today to call attention to this very sad situation in which we are expected to vote on something without knowing what we are voting on. As I say, we are caught on the horns of the dilemma, and I do not feel right within myself about raising these points of concern.

Now, the distinguished manager of the measure has suggested that we have an explanation of the amendments. That is all I am seeking in this instance. But I think we ought to get our collective heads together and try to work out some change in the rules whereby we will not be caught in this kind of situation.

The American people would be ashamed of us. I think they would be very disappointed, and disappointed in me, too. They sent me up here to represent the people of West Virginia, and I don't know what I am voting on here. Who can blame me? My staff can't find out overnight. This morning when I came in, some of my staff stayed late into the evening hours. When I came in this morning, they didn't have the amendments available. They hadn't been printed. We just can't operate wisely and with any kind of solid judgment in that fashion.

So I won't take more of the Senate's time now. But I do raise the specter of asking for a division, and a request for a division under the rules means that we vote on every divisible provision in that measure. And if I understood the Chair in response to my parliamentary inquiry, there must be scores of provisions which would be subject to division.

I am not going to put the Senate through that today, but I warn the Senate that we had better do something about this because, otherwise, some Senator is going to feel conscience-stricken enough one day to stand up and use the rules, and there are some Senators who know something about the rules. So I raise that question here just to put Senators on

notice that one Senator—one Senator—can cause all Senators to sit back and realize what we are doing and the way we are doing it is not good, not good for the Senate, not good for the American people.

Mr. DOMENICI. Will the Senator yield?

Mr. BYRD. Yes, I will be happy to yield.

Mr. DOMENICI. Mr. President, I could not agree with the Senator more. But I think we have followed the rules—the general rules of the Budget Act, plus the Byrd rule interpretations—as best we can. I think everyone should know that one of the problems on any reconciliation bill is that when the time has run, people can still offer amendments. That is written right into the statute. It says that when the time has run, you can send amendments to the desk, and I assume one could stay forever—I don't mean literally—and they shall be voted on then and there. I believe it says there is no time on the amendment. We have gone from allowing 1 minute to 2 minutes to 3 minutes per amendment. We decided we would allow Senators to offer their amendments last night, thinking they would stay and offer them. We got caught in a trap because Senators started walking up to me and Senator LAUTENBERG and giving us their amendments and asking us, as managers, to introduce them for them. I guess I could have said no, and the literal interpretation would have been that if you are not going to be around here, you are not going to offer them.

That was the genesis of what happened this morning. We put them all in order and tried to encapsulate them so you could understand them, and there were 64 of them, plus a couple of points of order. So we have done the best we could. As a matter of fact, I am very grateful. I would guess that more than 30 amendments were withdrawn—maybe 35. Others were clearly very simple amendments, and maybe in adopting them we should have used a little more words of explanation than we did. If that is the case, as to any Senator or anybody listening, we will just try to do better. But that situation is the law.

Now, the law is, as you say it also. You can still divide those amendments and have that minute on every one, I assume. You know the rules better than I. I have learned them a little bit now. But I believe, from this point on, we only have a few left. We would be very glad on this one—I asked the chairman, and he would be glad to explain it now as much as you would like and answer any questions. I understand we would only have a few more, and three or four points of order, and, finally, this ordeal will be behind us. Again, you have reminded us of our responsibility. I thank the Senator for that.

Mr. BYRD. Mr. President, I don't need to remind the distinguished Senator from New Mexico of his responsibility or any other Senator of his or her responsibility. As I said earlier, I am not complaining about anyone. I sympathize and empathize with the managers of the measure. They have done the best they could. You can't do any better. We have all been caught in this situation. It is not to our liking. But the distinguished manager, the chairman of the Finance Committee, sought to explain to me a minute ago, in 2 minutes, what was in this managers' packet. I didn't know anything, and when he completed, I didn't know any more than when he started. As a matter of fact, I was probably more confused. I think we would have had a little better explanation if we had a division and had each amendment explained.

Mr. LAUTENBERG. If the Senator will yield, I would like to make a comment. When Senator BYRD makes a statement, talks about a rule, talks about the process, I think it is kind of like the investment banker's advertising slogan that "when they talk, everybody listens." When Senator BYRD speaks here, everybody listens, and much of the country at the same time, because of the experience and knowledge that he brings to this body and the concern that he has for being forthright with our constituents.

I would just like to say this to the Senator. There was a degree of diligence—excessive haste, I agree. I will say one thing. I think that we appropriately learned a lesson about the process of stacking votes. I even suggested to the distinguished Senator from West Virginia that perhaps another Byrd rule could be put into place. I don't have the courage to offer it in my own name. But another Byrd rule might say that no more than 5 amendments, or 4 or 5 votes, or something like that, could be stacked at any time so that we would not get ourselves into this mad dash not to deceive and not to obscure, but rather to accommodate this very complicated process.

As the Senator from West Virginia knows, the Senator from New Mexico and I spent roughly 2 months, almost every day, reviewing and negotiating the points in the budget agreement. We tried—I speak for myself, and I am sure the same situation occurred on the Republican side of the aisle—to keep our members on the committee informed because, as the distinguished former chairman of the Appropriations Committee knows, it is very hard to conduct an honest negotiation and debate when there are 20 people in the room. So what we tried to do is consolidate a consensus view and do it that way. So we met with the committee members and then we met with the members of the Democratic Caucus, because there were questions that arose.

So I have to say this to the distinguished Senator. In my 15 years here, I honestly don't think that there has been a tighter review of matters related to the budget resolution than I have seen, because I have been on the Budget Committee almost all of the time that I have been here. We kept learning each year. I found the chairman of the Budget Committee, the Senator from New Mexico, good to work with. We had lots of different views, but the one thing that we didn't differ on is that the other person had a right to respect, a right to offer their opinion, and we did it that way. It got tedious at times, especially when one could not listen to one's self. On the other hand, we did gain, seriously, a lot of knowledge during that period.

I would say this. As I look around the room, we have experts in specific areas. If you want to talk about health, you know you would be talking quickly to the Senator from Massachusetts, and others on different matters of concern. And these matters were reviewed, not perhaps as thoroughly as we would have liked because we were committed to a time constraint overall. But, last night, I was here with the distinguished chairman of the Finance Committee until past 10 o'clock—about 10:30—and we were hung up on a single amendment, reviewing it and trying to get into a position that we felt would satisfy our respective constituencies in the Senate, and back home, and across the country, as well. So the effort was put in.

I think there is a mistake in the process, or a fault in the process, that needs to be corrected. I thank the Senator for raising the issue because, in these last hours, I have heard complaints from other Members of the Senate, as well, about this being too quick, too rushed. But we had a commitment. This is an unusual budget, a budget committed to a goal of zero deficit in 5 years. A lot was packed into it. The negotiations included members of the administration. It has been a very complicated, very tedious process, but no one, in my view shirked their responsibility.

I hope that, from this point forward, we will remember another Byrd lesson. I remember many of them. Despite my white hair, I feel like I am going to "professor" BYRD's class when I do attend appropriations meetings or other meetings. I would say this, "professor": I don't know what kind of a report card I have gotten, but I hope that it is better than a failing one and that you will say, OK, go forward and learn from this and next time I want to see a better performance. Thank you very much.

Mr. BYRD. Mr. President, I don't propose to have the answer to this problem. But it just seems to me that we are always caught up against a holiday, where we have a break the next week. And here we have this bill, and

we will have the tax portion of the reconciliation process that will follow after that. And we are asked to cut a little of the time off here, cut a little off there. It would seem to me that if we could get started on these measures earlier, we would not be faced with a situation in which the managers have to stay here far into the evening hours, while other Senators go home. It seems to me that if we had been able to get to this measure earlier, we could have had more time. But here we are, and it seems to work out this way upon every occasion, where we are backed up to a wall of some kind, where there is the attempt to cut 20 hours down to 15, 12, or 10, or an attempt to cut 50 down to 40 on the budget resolution. We always get the question, "Would you be willing to cut some time off of the 40 hours, cut it down to 30?" "Would you be willing to go home and come back Monday and say that 15 of the hours, or 10 hours, or 20 hours have been consumed?" So I suppose these situations could be avoided.

Let me get down to the point. Would someone explain what is in this amendment? As I explained, four or five Senators had amendments that they wanted to call up, but they were waiting to see what was in the managers' amendment. Those amendments must have been pretty important; otherwise, if they weren't in the managers' amendment, there would be a vote on each, some kind of vote, a vote by voice, a vote by division, or a vote by rollcall. There would be a vote and an explanation. Perhaps if we knew what was in those four or five major amendments, that would help.

Mr. REID. Will my friend yield?

Mr. BYRD. Yes.

Mr. REID. I say this to my friend from West Virginia and to the two managers of the bill. Speaking from my perspective only, I think that the explanations that have been given in 1 minute have been quite good. I am glad that the Senator from West Virginia asked for that, because I felt pretty comfortable voting on each amendment. I say this to my friend from West Virginia. If we look down the road to making this process better, we are not going to improve it by adding hours; we are going to improve it by making sure that amendments are offered before we finish the debate. If we have 50 hours, people are still going to offer all of these amendments at the end, if you have a loophole like this. I look forward to improving the system, but that we do it in whatever hours we have, and amendments should be offered during that time.

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. BYRD. Yes.

Mr. BUMPERS. Mr. President, we are all speaking here at the indulgence of the managers of the bill because there is no time left on this bill. I will not delay it for long.

First, I want to say that I have never been as happy with my decision not to seek reelection as I have been today. I have been voting on amendments that involve billions of dollars today with only a superficial or cursory knowledge of what I was voting on. I would not like to go home—and I don't speak for the rest of you but I expect I am speaking for the rest of you, too—I would hate to have to go home and explain to people what was involved in all of these amendments, particularly this one which I do not have a clue about.

But we must not lose sight of the point that the distinguished Senator from West Virginia made in the opening part of his statement a moment ago. That is, it is the rule that is the tyrant here with 20 hours to debate this part of the reconciliation bill and 20 hours to debate the tax portion of it, which is monumental and most probably will be the most significant important legislation we will deal with all year—20 hours. We will wind up at the end of that 20 hours precisely the way we have with this one. There will be a long list of amendments down there. Maybe we will have another unanimous-consent agreement where you are allowed 60 seconds to explain a bill that involves $10 billion.

We are not doing the people of this Nation a service as long as we allow this kind of a rule to put us in this kind of a straitjacket where we have to get up and openly confess that this system is not working as it ought to.

So, I applaud the Senator from West Virginia for his comments. He is right on target. Fifty hours ought to be a minimum for the consideration of a reconciliation bill.

I thank the Senator for making everybody aware of our shortcomings on this day.

Mr. BYRD. I thank the Senator.

Mr. President, I do not want to hold the floor longer. I apologize to the managers of the measure for imposing on them.

Is there some way that the distinguished Senator from New Mexico or the distinguished Senator from New Jersey can enlighten Senators as to what is in this managers' amendment—particularly, if I may say, with reference to the four or five amendments that have qualified and were being held back to see if the managers' amendment took care of those amendments?

As I understood it, Mr. KENNEDY had one amendment.

Mr. DOMENICI. On those four amendments we will try, if the chairman of the Finance Committee will explain, we will try to ask the Senators the relationship. It is not obvious on two of them that they are related at all, from what I could see. I think they were just trying to see how these major health matters are going to get clarified here, which is not in this amendment. I don't believe they are even in this amendment. So we will find that out, and before we vote, we will try to have an explanation.

Mr. BYRD. All right.

Mr. DOMENICI. Would the chairman like to explain in the best way possible what is in the amendment?

Is that what we would like to do next?

Mr. BYRD. That is what I would like.

May I say to the distinguished leader that he is frustrated with this process also. He said to me earlier today that we have to find some better way.

I do not want to be a part of a problem. I am hoping we can at least get some response from those who understand what is in the amendment so that the rest of us will at least go home feeling we did our best in understanding it and that we at least made it clear that something is wrong with the way the process is working.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I want to yield all of the time to the chairman of the Finance Committee. But I do want to make one statement.

My friend from Arkansas said, I guess, that today made him happy that he would soon stop being a Senator.

Let me make sure, if there are only six people listening on television, that this Senator would like to say that it makes me very proud what we are doing here. I am very proud of this bill. I am very proud of the balanced budget. I am very proud of how we got here and what we are doing here.

Frankly, if things keep going as well as this, I may break all longevity and stay here for a lot longer.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, if I may say so, I am encouraged very greatly by the news that the Senator from New Mexico will stay as long as possible, as does our distinguished friend and leader from West Virginia.

I say to my good friend from West Virginia, as he well knows, in every major piece of legislation there are a lot of technicalities and complexities involved in the legislation. In the efforts to draft them and put them in final shape, it becomes necessary to have a number of technical modifications at the end.

I would also say that in developing this legislation, it has been my intention to work with everyone, both in committee and on the floor. We have tried to include everybody—Republican, Democrats, senior Members, and junior Members.

So I think the process has been all-inclusive. Basically, what we have here in the so-called managers' amendment is sort of a cleanup of a number of matters that had to be modified to make them technically correct to take care

in some cases of some of the concerns of individual Members. Each of these have been reviewed very carefully by the technicians who understand it.

I think part of the problem is that these are very complex matters that aren't easy to explain or even to understand. But let me point out, for example, that in the managers' amendment, the first section that deals with what is known as "PPS-exempt" hospital changes, it deals with technical changes as to how they are reimbursed.

For example, the first says strike the update formula and substitute with a zero; update for fiscal years 1998, 2001, and market basket, minus 3 percent in 2002.

In trying to reach the $115 billion savings that we are supposed to make in Medicare, we reduce payments to the providers. Normally the reimbursement each year reflects the cost-of-living or inflation. But in this particular case, in order to make savings and because the hospitals are doing reasonably well, we are reducing the reimbursement.

It is that kind of technical change that much of this deals with.

In another situation, we are—again in efforts to save money—reducing what is known as disproportion payment and we have based the recommendations on what an independent commission has recommended, and I might say that is what the administration has recommended as well. These, again, are all basically very technical.

But going back to the reduction of the disproportion, because both Democrat and Republican Members were concerned about reducing as much as was recommended by this independent board, we have slowed that phase-in a little bit to make it easier for those organizations to adjust.

So essentially I would say it is this kind of technical change that we are trying to deal with here rather than major policy.

I assure you that we have dealt with both managers—the Republican manager, the Democrat, and, of course, I might say that we have been working very closely with my good friend and colleague, PAT MOYNIHAN.

Mr. MOYNIHAN. You most assuredly have, sir.

Mr. ROTH. So I don't have any disagreement with our distinguished friend and leader as to the whole process, but we have in good faith tried to deal with the process and meet the time schedules that everybody has wanted us to achieve.

I could go on and read all of these, if you like, sir. But I will say they are highly technical.

The first one, I might point out, included two Medicare hospital-related provisions. As I said, the first is a modification as to how we reimburse what are called Medicare PPS-exempt hospitals. A PPS hospital is paid on a prospective payment basis. That was a means that was adopted many years ago to try to gain better control of expenditures than you have when you have cost reimbursements. The hospital knows that for a certain kind of function, they will be able to receive so much money—say, $1,000. And they know they have to live within that. So they have an incentive to try to keep those costs down. But now we are cutting because we have to make greater savings. The hospitals, according to our independent panel, are doing relatively well, and we are trying to cut it more.

The second is a hospital wage index classification and reimbursement. We deal or address the wage index, and a highly technical modification takes place there.

So, as I say, they are this kind of technical change basically in an effort to make legislative language accurate and achieve the goals that were intended by the policy.

Mr. BYRD. Mr. President, the distinguished Senator is certainly doing everything that he can in the best of faith to try to explain some things about this amendment. I am sure this could go on quite a long time. It is not that kind of detail that this Senator is seeking.

Let me say again that I am not accusing anyone of acting in bad faith. Everybody is acting in good faith.

May I ask the distinguished manager of the bill: What were the four amendments that I understood Senators were holding back on to see what was in the managers' amendment? If we could have some indication of what they were about, that would be satisfactory with me.

Mr. DOMENICI. Sure.

Let me say, Mr. President, to the Senator from West Virginia that there was a Hutchison amendment. It had to do disproportionate share of payments to hospitals, and there is a modification of that which had adversely affected Texas that is apparently somewhat ameliorated there. Senator SPECTER had the exact issue, and he had a disproportionate share of payments amendment. He is part of this overall agreement that is in this managers' amendment.

Then there was a Bob Kerrey abortion amendment that had nothing to do with this amendment. But I asked him to wait for the managers' amendment before he did something on it.

I assume that Senator MURRAY is going to make the point of order on that issue. But I am not certain of that.

Mr. KERREY. That is close enough. There was actually a modification that requires me to wait before I offer my amendment. Otherwise I will have to offer it twice.

Mr. DOMENICI. OK. Unless he waits for that, he will have to offer it again.

Then there was a Senator Kennedy uninsured children's amendment that also seems unrelated. But he indicated that he would like to wait and see what happened to this amendment.

That was the four that I mentioned.

I think that is the full stint of those amendments and the stories behind them.

I yield the floor.

Mr. BYRD. Mr. President, I thank all Senators, particularly the managers of the bill, the Senator from Delaware, and also the distinguished Senator from New York [Mr. MOYNIHAN]. I thank them all. I thank all of them.

I don't have any other questions to raise. I will not ask for a division. Senators have certainly done the best they could to go as far as they could in answer to this Senator's frustration. That is what we are talking about. We are all frustrated. It is the rule, and we ought to try to find some way to change it. I don't have any quarrel with any Senator in particular.

I thank all Senators.

The PRESIDING OFFICER. The pending question is the amendment, as modified, No. 506.

Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 506), as modified, was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Now, Mr. President, do we have the child health amendment ready?

Mr. JEFFORDS. Mr. President, I believe we are all set with a colloquy that has clarified the language.

Mr. DOMENICI. I would like to proceed with that. We are very, very close to having no amendments left except a Murray point of order and a Kennedy point of order.

Mr. KENNEDY. Mr. President, if is agreeable with the floor manager, I would call up our Medicare home health benefit transfer from part A to part B and proceed with that.

Mr. DOMENICI. I say to the Senator, I was trying, if I could, to get one amendment before you, but if it is not ready, we will go right to you.

Mr. KENNEDY. That is all right. We are here so we will accommodate whatever.

Mr. DOMENICI. Mr. President, the amendment, which is a product of many Senators on both sides, with reference to child health is not ready. Therefore, we would like to move to the point of order either by Senator MURRAY or Senator KENNEDY.

Is Senator MURRAY ready?

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

POINT OF ORDER

Mrs. MURRAY. Mr. President, I make a point of order that section 1949(a)(2) of this act violates section 313(b)(1)(A) of the Congressional Budget Act.

Mr. President, as an appropriator, I object to the language included in this legislation by the Finance Committee that would make permanent a prohibition against Medicaid managed care funds being used for abortion services except in the cases of rape, incest, or where the woman's life is in danger. This is, for all intents and purposes, a permanent extension of the so-called Hyde amendment that has been included in every Labor-HHS and education appropriations bill since 1987. A reconciliation bill is not the proper vehicle for major abortion policy decisions. This is not how Congress has traditionally dealt with such decisions, and this is not how we should begin to deal with such decisions.

I know that some of my colleagues disagree——

Mr. LAUTENBERG. If the Senator will yield, Mr. President, this place is not in order. It is terribly unfair to the Senator. Her voice is soft, and we ought to make sure that we can hear it. She has an important message for all of us, and I resent the fact that people are talking and laughing and doing what they are doing.

Please, Mr. President, let us get order.

The PRESIDING OFFICER. Before the Senator from Washington proceeds, let me ask all Senators, if they would, to please take their conversations to the Cloakroom and give the Senator from Washington the courtesy of everyone hearing her remarks.

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

The PRESIDING OFFICER. The absence of a quorum is suggested. 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. I might explain to the Senators the reason for the delay and the quorum call is that we are discussing with Senator MURRAY, with reference to a point of order, we are discussing exactly what it means and what it doesn't mean, and she has requested that we set it aside pending further discussion. So I so propose a unanimous-consent request to the Senate.

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

The point of order will be set aside.

AMENDMENT NO. 504

Mr. DOMENICI. I understand Senator KENNEDY has two remaining amendments. One has to do with home health care and the trust fund. I believe he is going to take that up now.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, if we could have the attention of the Senate.

The PRESIDING OFFICER. The Senate will be in order.

Mr. KENNEDY. Mr. President, this amendment would speed up the agreed-upon transfer of a portion of the Medicare home health benefit from part A to part B. This acceleration would extend the solvency of the Medicare trust fund by 2 years. It would not affect the deficit or seniors' premiums. We have maintained in our amendment that the premiums that have been agreed to would be maintained, or it would not affect the total amount of the benefit ultimately transferred.

It is strictly a bookkeeping transaction, but it will help save Medicare. It extends the solvency of the Medicare Program by 2 years. It was in the President's budget. It is a desired outcome for those who are interested in the financial security of the Medicare trust fund. We debated the stability and the security of the Medicare trust fund at length yesterday. This is a way of extending it by 2 years.

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

Mr. DOMENICI. I yield time in opposition to Senator ROTH, chairman of the Finance Committee.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I object to the amendment. We are transferring, over 7 years, home health care to part B, but we want to do it in seven segments because it is agreed that the beneficiaries should continue to pay 25 percent of the cost of the part B services. We do not want to put it all over the first year because we do not want to raise the premiums that rapidly.

So in order to be consistent, what we provide in the legislation is that the home health care will be transferred over 7 years. Each year an additional seventh will be included in the cost of the premium, so that will make the phasein much lower.

The PRESIDING OFFICER. Is there further debate?

The Senator from New Mexico.

Mr. KENNEDY. Mr. President, do I have any further time?

The PRESIDING OFFICER. Both sides have used their allotted time.

Mr. DOMENICI. Mr. President, I make a point of order that the Kennedy amendment violates the Budget Act in that the amendment is subject to the Byrd rule.

Mr. KENNEDY. Mr. President, I move to waive the point of order as made.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the point of order. All those in favor say yea.

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

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

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 bill clerk called the roll.

The yeas and nays resulted—yeas 38, nays 62, as follows:

[Rollcall Vote No. 127 Leg.]

YEAS—38

Akaka	Feingold	Levin
Bingaman	Feinstein	Lieberman
Boxer	Ford	Mikulski
Breaux	Glenn	Murray
Bryan	Graham	Reed
Bumpers	Harkin	Reid
Byrd	Inouye	Robb
Cleland	Johnson	Rockefeller
Conrad	Kennedy	Sarbanes
Daschle	Kerry	Torricelli
Dodd	Landrieu	Wellstone
Dorgan	Lautenberg	Wyden
Durbin	Leahy	

NAYS—62

Abraham	Frist	McCain
Allard	Gorton	McConnell
Ashcroft	Gramm	Moseley-Braun
Baucus	Grams	Moynihan
Bennett	Grassley	Murkowski
Biden	Gregg	Nickles
Bond	Hagel	Roberts
Brownback	Hatch	Roth
Burns	Helms	Santorum
Campbell	Hollings	Sessions
Chafee	Hutchinson	Shelby
Coats	Hutchison	Smith (NH)
Cochran	Inhofe	Smith (OR)
Collins	Jeffords	Snowe
Coverdell	Kempthorne	Specter
Craig	Kerrey	Stevens
D'Amato	Kohl	Thomas
DeWine	Kyl	Thompson
Domenici	Lott	Thurmond
Enzi	Lugar	Warner
Faircloth	Mack	

The PRESIDING OFFICER. On this vote, the yeas are 38, the nays are 62. 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. LAUTENBERG. Mr. President, 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.

AMENDMENT NO. 504

Mr. SPECTER. Mr. President, I have sought recognition to explain my views concerning the Kennedy amendment 504, which would have immediately transferred to Medicare part B the home health benefits currently paid for under the Medicare part A trust fund.

Payment for home health care is made from the part A trust fund for home health services such as part-time

or intermittent nursing care provided by or under the supervision of a registered nurse or home health aide.

To protect the solvency of the part A trust fund, the bill shifts some of the home health costs on a 7-year phased-in basis from part A to part B.

The budget reconciliation bill reflects a careful compromise on protecting the solvency of the part A trust fund for all seniors without unduly burdening the taxpayers. Under the Kennedy amendment some of the bill's fiscal protections would have been dropped, and taxpayers would have effectively funded 100 percent of the home health services in fiscal year 1998, which would be unprecedented under Medicare. In my judgment that goes too far and adversely affects the present preferable balance.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, throughout the day I have been working with Senator CHAFEE and others with regard to amendments.

Mr. LAUTENBERG. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate is not in order. The Senate will please come to order.

The majority leader.

UNANIMOUS CONSENT AGREEMENT

Mr. LOTT. Mr. President, I have been working with Senator CHAFEE and others, including Senator JEFFORDS, on a number of amendments that were offered last night as first- or second-degree amendments. I think we have worked out a process, now, that we are all comfortable with. Let me enter this unanimous-consent request and then we will have a brief colloquy also.

I ask unanimous consent the following amendments be withdrawn: Chafee amendment No. 448, Chafee amendment No. 500, Chafee amendment No. 501, Lott amendments Nos. 505, 507, 508, 509, Rockefeller amendment No. 510 and the Roth amendment No. 513;

I further ask unanimous consent that the Senate turn to the Roth amendment No. 511, and that all between lines 23 on page 22 and line 3 on page 23 be stricken;

I further ask the Senate then call up the Chafee amendment No. 512 to the Roth amendment No. 511, as modified, that the Chafee amendment be agreed to, and the Roth amendment, as amended, then be agreed to;

I further ask unanimous consent that when the committee amendment to S. 949, the Taxpayer Relief Act, is before the Senate, Senator ROTH be recognized to offer an amendment which is the text of the Roth amendment No. 511, as modified and amended, and the text of the Kennedy amendment, No. 492, if adopted by the Senate, to S. 947, to the language regarding the children's health initiative, and the amendment be agreed to;

Finally, I ask unanimous consent that it not be in order during the pendency of S. 949 to offer further amendments or motions regarding title XXI of the Social Security Act, except amendments regarding revenues and outlays.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. The Senator from Delaware——

The PRESIDING OFFICER. The Senator from Vermont will suspend. The Senate is not in order. Senators please take their conversations off the Senate floor. The Senator from Vermont.

Mr. JEFFORDS. If the chairman of the Finance Committee would give me his attention, as I read the unanimous-consent request, States would not be able to use the new funds under the children's health insurance initiative to provide health care coverage under either the block grant or to provide Medicaid for children over 200 percent of poverty.

This creates a real problem for a number of States. Vermont is currently covering all children aged 18 that have family incomes of 225 percent of poverty through its Medicaid Program. I would like to be assured that we will work to address this concern in the conference so that States have the ability to use the new funds to provide health care coverage for children over 200 percent of poverty. There are children above this level that need the help badly.

Mr. ROTH. Mr. President, I say to the Senator from Vermont, he has my assurance that we will discuss this concern in the conference committee. It is not my intent to penalize those States that have done a good job in covering their low-income children or to exclude needy children from coverage.

Mr. CHAFEE. I would like to address this, Mr. President, if I might, to the distinguished chairman of the Finance Committee. It is also my understanding that a State would be able to use any new funds to provide health coverage for children under 200 percent of poverty and use existing State dollars, normally used for this purpose, in order to provide health care coverage for children over 200 percent of poverty.

Mr. ROTH. Mr. President, section 2102 allows for the use of existing State funds to provide additional health care coverage for children over 200 percent of poverty.

Mr. CHAFEE. I thank the chairman for that. I also extend my thanks to the distinguished majority leader for helping us reach this unanimous-consent agreement. I believe the resolution of this problem has been a very good one. I thank, as I say, the majority leader and the chairman of our Finance Committee and other Senators who have worked on this, particularly on our side, Senator JEFFORDS.

Mr. GREGG. Reserving the right to object.

The PRESIDING OFFICER. The Senator from New Hampshire reserves the right to object.

Mr. GREGG. Is the practical effect of this amendment that there will only be two options available now to States: One would be to put the child in Medicaid, and the other would be to use a Blue Cross/Blue Shield standard option plan with hearing and eyeglasses?

Mr. ROTH. No; the choice is not limited to that. Under the option, the States must provide benefits that are the equivalent of a Blue Cross standard plan. But I emphasize the word "equivalent," because it means considerable flexibility. I should point out, it also includes vision and hearing services.

Mr. CHAFEE. That is right. The State can use its own funds. If it has been using its funds for other types of services, they can continue using their State funds for those other types of services.

Mr. GREGG. Further reserving the right to object.

The PRESIDING OFFICER. The Senator from New Hampshire further reserves the right to object.

Mr. GREGG. The practical effect of this then is that the programmatic activities are specifically mandated as being either a Medicaid Program or a Blue Cross/Blue Shield equivalent program, is that not correct?

Mr. ROTH. That is correct.

Mr. GREGG. I have very serious reservations about this. I presume the leaders worked hard on reaching this agreement, and I presume that there is going to be further consideration of this issue.

Mr. LOTT. As a matter of fact, Mr. President, if I can respond to the Senator's reservation, I noted when I read through this that there were a series of amendments that had been offered in a variety of ways affecting this particular area: Three by Senator CHAFEE, four by myself, one by Senator ROTH, one by Senator ROCKEFELLER. So this is quite a laboriously worked-out process.

The Senator from Vermont, as a matter of fact, is not particularly happy with some provisions still remaining, and he had an amendment that would have tried to change that. A number of others—Senator NICKLES of Oklahoma—I believe, had something. But this unanimous-consent agreement was worked out in a way that a number of Senators decided not to go forward with their objections.

I personally don't agree with this, but it is the best way that we could work through about six or eight

amendments that were pending in a reasonable and fair way, and it certainly will have another day in court.

Mr. GREGG. Well, on that representation, I won't object, but I have serious reservations, I must say.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I say to my colleagues, I think the majority leader is exactly right, and I congratulate him, as well as Senator ROTH and his excellent staff, as well as Senators CHAFEE, JEFFORDS, and many others who worked on it.

As the majority leader has indicated, it has been a very laborious, long process in which things sort of just gradually, tectonically moved together, but very, very slowly.

The point is that we can say now children are going to have good benefits, and that doesn't mean that they have to pick a particular plan. There is not a mandate in this that they have to pick this plan or that plan, but they will be able to get the kinds of benefits that we have as Senators, as Federal workers.

I think, frankly, we have an obligation to make sure our children have plans. Preventive care, hospital care, doctor care, prescription, vision and hearing is in this. That is very important for early years, preventive care.

So I think, frankly, it has been extremely complicated, it has taken a long time, but I think it is a good compromise, a good agreement, and I congratulate those who brought it together.

Mr. LOTT. Mr. President, also, before I renew my unanimous-consent request, Senator BREAUX was also involved in this exercise and was helpful. I express my appreciation to him.

I renew my unanimous-consent request.

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

Mr. LOTT. I yield the floor, Mr. President.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I thank the distinguished Senator from West Virginia, Senator ROCKEFELLER, for his help in this. As he mentioned, this has been a very long, long difficult process. He has been very helpful.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, if it is agreeable with the floor managers, I am prepared to move ahead with my amendment dealing with children's benefits.

Mr. DOMENICI. I believe that is the last amendment, except the three points of order that are going to be submitted by the Democratic floor leader en bloc.

Mr. KERREY. I still have my amendment.

Mr. DOMENICI. Sorry, I forgot. I thought that was going with Senator MURRAY when she withdraws her point of order. It is different?

Mr. KERREY. Yes.

Mr. DOMENICI. Can we recognize Senator MURRAY for a moment? She intends to speak to the Senate with reference to her previous point of order.

POINT OF ORDER, WITHDRAWN

Mrs. MURRAY. Mr. President, I withdraw my previous point of order, but I want this body to know that I object to the language in this bill that essentially makes Hyde permanent and affects those States whose managed care plans now cover medically necessary abortions. Unfortunately, the way the language was cleverly drafted, my point of order would have unintended consequences.

I go back to what my colleague from West Virginia said to all of us a few minutes ago. I think as we move toward final passage, I hope we all understand the severe consequences of the many different arenas in this bill.

I withdraw my point of order.

The PRESIDING OFFICER. The Senator has a right to withdraw her point of order. The point of order is withdrawn.

The Senator from Massachusetts.

AMENDMENT NO. 492

Mr. KENNEDY. Mr. President, I call up our amendment dealing with the special health needs of children. I call up the amendment on behalf of myself and Senator HARKIN.

First of all, I commend the Senators for getting us where we are in terms of the new health benefits package for children, but there are some very critical needs for children, children with disabilities, children who are developmentally delayed and children with special needs.

Those needs are not attended to, and that is why this amendment is supported by the Consortium of Citizens with Disabilities, the American Academy of Pediatrics, the American Association of Retarded Citizens and the National Alliance for the Mentally Ill.

This will ensure that, in those particular areas, the children will receive what is medically necessary. The Federal employees program is targeted to adults and not toward children. This recognizes that there are special needs for children in these areas, and it permits what is medically necessary. It is a limited program, but it is vital in terms of the special needs of those children. I hope that it will be agreed to.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I yield 40 seconds of our time to Senator ROTH, and I will use 20 seconds.

Mr. ROTH. Mr. President, I oppose the Kennedy amendment. As we have just been discussing, we have carefully crafted and negotiated the issue of the benefits package for the new children's health initiative. This amendment would break that agreement by requiring additional benefits. It does the very opposite of what we want to do. We want to provide flexibility to the States, and this would be a major step in the wrong direction.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, this would change a bipartisan compromise in the committee and make a long list of benefits mandatory. Thus, it would fly in the face of reform and make it more difficult for the States to deliver quality care for less money. In essence, it is apt to produce less quality care under the rubric of supplying all of the specifics, even if you could get better care with less specifics.

I move to table the Kennedy 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. 492. 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 57, nays 43, as follows:

[Rollcall Vote No. 128 Leg.]

YEAS—57

Abraham	Faircloth	Mack
Allard	Frist	McCain
Ashcroft	Gorton	McConnell
Baucus	Graham	Moynihan
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Breaux	Grassley	Roberts
Brownback	Gregg	Roth
Burns	Hagel	Santorum
Campbell	Hatch	Sessions
Coats	Helms	Shelby
Cochran	Hutchinson	Smith (NH)
Collins	Hutchison	Smith (OR)
Coverdell	Inhofe	Snowe
Craig	Kempthorne	Stevens
D'Amato	Kerrey	Thomas
DeWine	Kyl	Thompson
Domenici	Lott	Thurmond
Enzi	Lugar	Warner

NAYS—43

Akaka	Feinstein	Lieberman
Biden	Ford	Mikulski
Bingaman	Glenn	Moseley-Braun
Boxer	Harkin	Murray
Bryan	Hollings	Reed
Bumpers	Inouye	Reid
Byrd	Jeffords	Robb
Chafee	Johnson	Rockefeller
Cleland	Kennedy	Sarbanes
Conrad	Kerry	Specter
Daschle	Kohl	Torricelli
Dodd	Landrieu	Wellstone
Dorgan	Lautenberg	Wyden
Durbin	Leahy	
Feingold	Levin	

The motion to lay on the table the amendment (No. 492) was agreed to.

Mr. DOMENICI. 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. 427

Mr. DOMENICI. Mr. President, there is an amendment pending at the desk, an amendment for Senator DEWINE that is No. 427.

I am going to send, at his request and with the approval of the minority, a modification. This amendment, as modified, will amend the Social Security Act to continue full-time equivalent resident reimbursement for 1 additional year under Medicare for direct graduate medical education for residents enrolled in combined approved primary care medical residency training programs.

AMENDMENT NO. 427, AS MODIFIED

Mr. DOMENICI. I send the modification to the desk, and ask unanimous consent that we call up the amendment as modified.

The PRESIDING OFFICER. Is there objection to modifying the amendment?

Without objection, it is so ordered. The amendment is modified.

The amendment (No. 427), as modified, is as follows:

At the appropriate place in chapter 3 of subtitle F of division 1 of title V, insert the following:

SEC. . MEDICARE SPECIAL REIMBURSEMENT RULE FOR PRIMARY CARE COMBINED RESIDENCY PROGRAMS.

(a) IN GENERAL.—Section 1886(h)(5)(G) of the Social Security Act (42 U.S.C. 1395ww(h)(5)(G)) is amended—

(1) in clause (i), by striking "and (iii)" and inserting ", (iii), and (iv)"; and

(2) by adding at the end the following:

"(iv) SPECIAL RULE FOR PRIMARY CARE COMBINED RESIDENCY PROGRAMS.—(I) In the case of a resident enrolled in a combined medical residency training program in which all of the individual programs (that are combined) are for training a primary care resident (as defined in subparagraph (H)), the period of board eligibility shall be the minimum number of years of formal training required to satisfy the requirements for initial board eligibility in the longest of the individual programs plus one additional year.

"(II) A resident enrolled in a combined medical residency training program that includes an obstetrics and gynecology program qualifies for the period of board eligibility under subclause (I) if the other programs such resident combines with such obstetrics and gynecology program are for training a primary care resident.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to combined medical residency training programs in effect on or after January 1, 1998.

Mr. DOMENICI. I believe that amendment is acceptable.

I yield back any time I might have.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 427), as modified, was agreed to.

Mr. DOMENICI. 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.

AMENDMENTS NOS. 447, 464, 470, 477, AND NO. 503, AS MODIFIED, WITHDRAWN

Mr. DOMENICI. I ask unanimous consent to withdraw five amendments that remain: 447, Senator HUTCHISON; 464, Senator BROWNBACK; 470, Senator SPECTER; 477, Senator DURBIN; and 503, Senator ROCKEFELLER.

The PRESIDING OFFICER. Is there objection?

Without objection, the amendments are withdrawn.

The amendments (Nos. 447, 464, 470, 477, and No. 503), as modified, were withdrawn.

Mr. DOMENICI. Mr. President, there is one additional amendment by Senator KERREY.

The PRESIDING OFFICER. The Senate will come to order.

Mr. DOMENICI. One additional amendment by Senator KERREY, which will require a vote. Then there will be three points of order en bloc by the minority. We will not seek to overrule them. We will accept them. The provisions will then cause those portions of the bill to fail, to drop. Following that, we will have final passage.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 496, AS MODIFIED

Mr. KERREY. Mr. President, I ask unanimous consent to modify my originally filed amendment since the managers' amendment changes the language that my amendment seeks to strike.

The PRESIDING OFFICER. Is there objection to the modification?

Without objection, the amendment is modified.

The amendment (No. 496), as modified, is as follows:

At the appropriate place in section 2106, as added by section 5801, strike all matter related to "use limited to State Program Expenditures" and insert the following:

"(d) USE LIMITED TO STATE PROGRAM EXPENDITURES.—Funds provided to an eligible State under this title shall only be used to carry out the purposes of this title."

Mr. KERREY. Mr. President, there is language in the bill that imposes what has been imposed typically in the appropriations process, permanently imposing a restriction on the use of Federal money for payment for abortions. I know it is very controversial, a lot of fun to debate. But by putting it in permanent law, we are doing something entirely different than has been done before.

Second, I would say to my colleagues, this affects only low-income teenagers. That is basically what we are doing, saying to low-income teenagers that we are not going to allow taxpayer money to be used for abortions.

Third, I would say, for those who say, "Well, that's right, we don't want to use taxpayer money for abortions," we do not have a similar restriction on our salaries, we do not have a similar restriction on any other Federal employee's salary. If we have income coming to us, that is taxpayer income.

If you want to be consistent here, you want to say you are going to treat low-income teenagers the same as our teenagers are treated, then you would have to put restrictions on how we can spend our salaries as well.

I hope that this amendment will pass and we will strike this language. If you want to bring the Hyde amendment up, I think it is much more appropriate to do so not on appropriations bills.

Mr. DOMENICI. I yield time in opposition to Senator NICKLES.

Mr. NICKLES. Mr. President, I rise in opposition to the amendment of Senator KERREY. We put in language in this bill to make sure in this new program—we created a new program for health care for kids, for teenagers. What we are doing in this amendment is saying this health care program should not include abortion or money for elective abortion.

We basically said no public funds would be used for abortion —only if the abortion is necessary to save the life of the mother or in cases of rape or incest. That is consistent with the Medicaid Program. That is consistent with Federal health care policies that we have for Federal employees right now, and we certainly should not create a new program that says, "Oh, you can have abortion on demand, paid for by taxpayers." We will spend billions of dollars. We should not be saying those billions are eligible for teenagers for elective abortion.

I urge my colleagues to vote no on the Kerrey amendment.

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

The PRESIDING OFFICER (Mr. ABRAHAM). Is there a sufficient second?

There is a sufficient second.

The yeas and nays have been ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 496, as modified.

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 39, nays 61, as follows:

[Rollcall Vote No. 129 Leg.]

YEAS—39

Akaka	Glenn	Mikulski
Baucus	Harkin	Moseley-Braun
Bingaman	Hollings	Moynihan
Boxer	Inouye	Murray
Bryan	Jeffords	Reed
Bumpers	Kennedy	Robb
Campbell	Kerrey	Rockefeller
Chafee	Kerry	Sarbanes
Daschle	Landrieu	Specter
Dodd	Lautenberg	Stevens
Durbin	Leahy	Torricelli
Feingold	Levin	Wellstone
Feinstein	Lieberman	Wyden

NAYS—61

Abraham	Enzi	Lugar
Allard	Faircloth	Mack
Ashcroft	Ford	McCain
Bennett	Frist	McConnell
Biden	Gorton	Murkowski
Bond	Graham	Nickles
Breaux	Gramm	Reid
Brownback	Grams	Roberts
Burns	Grassley	Roth
Byrd	Gregg	Santorum
Cleland	Hagel	Sessions
Coats	Hatch	Shelby
Cochran	Helms	Smith (NH)
Collins	Hutchinson	Smith (OR)
Conrad	Hutchison	Snowe
Coverdell	Inhofe	Thomas
Craig	Johnson	Thompson
D'Amato	Kempthorne	Thurmond
DeWine	Kohl	Warner
Domenici	Kyl	
Dorgan	Lott	

The amendment (No. 496) as modified, was rejected.

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

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

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will please come to order.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am just waiting for the minority manager to make a point of order, and we will be ready to go to final passage.

POINT OF ORDER

Mr. DASCHLE. Mr. President, pursuant to section 313 of the Congressional Budget Act, I make a point of order that the following sections of the pending bill are extraneous to the reconciliation instructions of the respective committee of jurisdiction: section 5713, section 5833, and section 5987.

The PRESIDING OFFICER. The Chair sustains the points of order.

Mr. ROBB. Mr. President, I rise today to discuss S. 947, the Balanced Budget Act of 1997. I'm pleased that we've come together in a bipartisan way—both sides of the aisle, both sides of the Capitol, and both ends of Pennsylvania Avenue—to craft a plan that brings us a step closer to fiscal sanity.

The good news, Mr. President, is that the bill before us realizes roughly $137 billion in savings over the next 5 years. And that's good news for our country and for our children and our grandchildren.

S. 947 provides additional years of solvency to the Medicare hospital trust fund, reforms payment methodologies for skilled nursing facilities, home health, and outpatient entities, and includes greater choice—and expanded preventive benefits—for millions of Medicare beneficiaries. As a cosponsor of the original Chafee-Rockefeller child health bill, I'm delighted that this bill contains $16 billion to expand access to health care for America's children, most of whom live in the home of an American worker.

Someday, our children will be grateful for the $16 billion we invested in their health care, Mr. President. And they will be grateful that we succeeded today in saving $137 billion in future debt—debt we will not ask them to pay.

But our children will not be grateful if we don't take this opportunity in this budget to tackle long-term entitlement reform in a systemic way.

We all know the statistics. While entitlements and interest on the national debt represented just 30 percent of our budget in 1963, they will absorb 70 percent by the year 2002. And even more alarmingly, if we don't make changes in the way we do business around here, entitlements and interest on the debt will absorb the entire Federal revenue base by the year 2012. How then can we responsibly invest in our children? How can we sustain the transportation infrastructure needed to support a thriving economy in the next century? How do we pay our soldiers, repair our subs and carriers, and invest in the technology we need to remain the last great superpower on Earth?

Mr. President, despite the fact that the vast majority of economists have told us that we need to adjust the consumer price index to accurately reflect inflation, we have no legislative CPI adjustment in this package. Opponents say that since we don't need a legislative CPI adjustment to balance the budget in 5 years, it's not in this plan. But what about when the baby boom generation retires, Mr. President, when just three workers—and then two—will support each Social Security beneficiary?

The Finance Committee had the courage to include a provision in this bill to gradually increase the eligibility age for Medicare from 65 today to 67 by the year 2027. This provision has been under assault—and will continue to be—from many sides. Some who oppose it argue that this is not the time. And while I'm committed to identifying methods to provide access for those who may encounter a lapse in coverage—and this bill creates a bipartisan commission that will look at the feasibility of a Medicare buy-in program—when will the time be right? We had a good vote in support of this eligibility increase in the Senate and we have to fight to retain it in conference.

Finally, the home health copay and the affluence testing for wealthy seniors which were included in the committee mark and which were supported by the majority of the Senate during two rollcall votes held yesterday will likely not survive conference as well, Mr. President. These provisions are in danger even though we all know we have to find responsible ways to reduce the Federal cost of Medicare. While affluence testing of part B premiums is a political lightning rod, it is good public policy. It is simply indefensible to require lower income families, many who cannot afford health insurance for their own children today, to continue to help subsidize 75 percent of the Medicare premiums of wealthy seniors.

We have much to do, Mr. President, to fulfill our obligation to leave our children a strong economic future and a quality of life equal to the one we inherited from our own parents. The first step is to balance our budget—and I hope the bill before us accomplishes that goal. The next step—and it is an essential one—is to tackle long term, systemic entitlement reform that will protect both the solvency of Medicare and Social Security and the economic security of the generations that follow us.

I hope the conferees will not make those goals even harder to achieve in the future.

With that plea Mr. President, I yield the floor.

THE BUDGET RECONCILIATION BILL MUST PROTECT LEGAL IMMIGRANTS

Mr. KENNEDY. Mr. President, I continue to be concerned about actions by Congress that hurt legal immigrants.

Last year, Congress passed a so-called welfare reform bill. This harsh bill cut off legal immigrants from most Federal assistance programs for the first time in history. It permanently banned legal immigrants from SSI and food stamps. It banned them for 5 years from AFDC, Medicaid, and other programs. And, it gave the States the option of permanently banning them from these programs.

We quickly saw the effect of these extreme provisions. Panic spread through the immigrant community. The Social Security Administration sentnotices to legal elderly and disabled immigrants that they would soon lose their SSI benefits. Numerous reports in the press told of legal immigrants who would be turned out of nursing homes, or cut off from disability payments. Some legal immigrants took their own lives, rather than burden their families. Thankfully, many Members of Congress realized that these provisions went too far.

This budget reconciliation bill corrects many of those mistakes. Members of the Finance Committee and Budget Committee showed impressive leadership in developing this bill. They recognized that the immigrants affected by last year's harsh cuts are individuals and families who came here legally. By and large, they are family members—mothers, fathers, and sons, daughters—of American citizens. They play by the rules, pay their taxes, and serve in the Armed Forces. They can be drafted. They can volunteer. We have hundreds of them in Bosnia today. They are future citizens trying to make new lives for themselves and their families in this country. I commend the committees for working so hard to come up with a bipartisan proposal.

This bill allows legal immigrants who are already receiving SSI to continue their SSI payments. It preserves SSI coverage for immigrants already in the United States who become disabled in the future, and for future immigrants who are too severely disabled to go through the process of naturalization to become citizens. It extends the exemption for refugees from 5 to 7 years. It exempts children from the 5-year ban on Medicaid eligibility.

There is still much more to be done to correct the problems created for immigrants by last year's welfare reform law. But, overall, this bill makes worthwhile progress toward restoring a safety net for immigrants who fall on hard times. I hope that Senators will do all they can to see that the immigrant provisions in this bill are retained in the Senate-House conference and final bill.

MEDICARE REFORM

Mr. GRAMS. Mr. President, I rise today in support of some very important Medicare reforms made within the reconciliation package before us. Specifically, I am pleased the committee included reforms to the formula used to determine the reimbursement rate for health plans under the Medicare Program to make it fairer and more equitable for States like Minnesota and other parts of rural America, changes to ensure better access to emergency medical services, and an expansion of Medical Savings Accounts.

Reform of the Adjusted Average Per Capita Cost formula has been needed for years because the formula has discriminated against seniors who choose to live and retire in rural communities. It has penalized States like Minnesota which are efficient in delivering health care services, and in doing so, discouraged quality health care. Since being elected to the Senate in 1994, I have made restoring fairness and equity to Medicare recipients in Minnesota and other parts of rural America a top priority.

Mr. President, we are all aware of the fact that the current Medicare reimbursement formula discriminates against Minnesota by giving our State the second-lowest payment rates in the Nation. Not one county in the entire State of Minnesota, or in 15 other States, receives the national average of $467 in AAPCC payment per month.

Because of these low reimbursement rates, managed care organizations have been discouraged from offering our senior citizens many of the alternative health plans available in other parts of the country, plans which offer additional benefits such as eyeglasses and prescription drugs. Clearly, this is a problem which should have been addressed long ago.

In February, several of my colleagues and I introduced S. 359, the Medicare Payment Equity Act, which would have established a floor of 80 percent of the national adjusted capitation rate for the year and made the AAPCC formula more equitable by blending the national and county specific percentage. More recently, I cosponsored S. 862, authored by Senator GRASSLEY, which followed the same lines of reform and even more closely resembles what was ultimately passed by the Finance Committee. Under the leadership of Finance Chairman ROTH and through the tireless efforts of Senators THOMAS, BURNS, GRASSLEY, and ROBERTS, we have succeeded in beginning to fix the Medicare formula to make it fairer for Minnesota's seniors and right some of the wrongs against us.

The AAPCC reforms contained in the reconciliation bill are a very important step in restoring fairness and providing greater choices for Medicare recipients who live in Minnesota, particularly in rural communities. This truly represents a great victory for Minnesota's senior citizens as we close the longstanding gap of inequity in the Medicare Program.

Mr. President, this legislation also addresses another important issue in which I have been deeply involved. In January, Senator GRAHAM of Florida and I introduced S. 238, the Emergency Medical Services Efficiency Act, to establish a reasonable standard for determining Medicare reimbursement for EMS services. Our bill would ensure that EMS providers would be reimbursed based upon a prudent layperson standard, rather than the ultimate diagnosis of a physician. This revised definition will ensure that EMS providers are prepared to meet the challenges facing them as they work to improve their services.

All of us depend daily on the readiness, efficiency, and immediate response of our emergency medical system. And while many of us take it for granted, we all want it to work well when we need it. Many of the men and women who risk their lives delivering emergency care have told me the system can be improved, yet their desire to improve the services they provide has rarely been recognized by Congress. This provision in the reconciliation bill is the first step in helping EMS providers help themselves become more efficient. I would like to thank Senator GRAHAM for his efforts in the Finance Committee to see that this important issue was included in the package.

Finally, I would like to thank Chairman ROTH for his efforts to include an expansion of Medical Savings Accounts. In developing a Medicare Choice Program modeled on the Federal Employee Health Benefits plan, this will offer, for the first time, a real choice to America's seniors.

Again, I commend and thank Chairman ROTH and his Finance Committee colleagues for including these important changes in the reconciliation spending package.

BIPARTISAN BUDGET AGREEMENT ITEMS TO BE ACHIEVED IN APPROPRIATIONS PROCESS

Mr. DOMENICI. Mr. President, I rise to address some concerns expressed by the administration with regard to two items they believe should be in this reconciliation bill. I would like to clarify what we assumed in the 1998 budget resolution for those items.

The bipartisan budget agreement did include assumptions on additional funding for unemployment insurance benefits integrity and on extension of fees for SSI State supplemental benefit administration. In both instances, the budget resolution assumed that these proposals would be implemented by the Appropriations Committee, and therefore the authorizing committees were not instructed to achieve these savings in reconciliation. The budget resolution is the basis for scoring congressional action and cannot be changed in an ad hoc manner, that is, without passing another concurrent resolution to change it.

I would ask the chairman of the Appropriations Committee if it is not also his understanding that these proposals are to be considered by his committee?

Mr. STEVENS. As chairman of the Appropriations Committee, I am committed to working with the chairman, and the administration regarding the levels of funding assumed in the bipartisan budget agreement that are within purview of the Appropriations Committee. It is my understanding that the Subcommittee on Labor, Health and Human Services, and Education has been working with the Office of Management and Budget with regard to the proposals you have mentioned.

Mr. DOMENICI. I thank the Senator for helping clarify this matter.

COVERAGE OF CERTAIN SERVICES IN RELIGIOUS NONMEDICAL HEALTH CARE INSTITUTIONS UNDER THE MEDICARE AND MEDICAID PROGRAMS

Mr. KENNEDY. Mr. President, I strongly support the provisions in this bill to ensure the continuation of Medicare and Medicaid reimbursement for secular nursing services in religious nonmedical health care institutions. These provisions ensure that strong religious beliefs are not a barrier to Medicare and Medicaid benefits.

When Medicaid and Medicare were enacted over 30 years ago, Congress included a special provision granting a religious accommodation for members of the church, so that they could receive benefits for care in their facilities comparable to the benefits available to others for similar cases.

For 30 years, the Christian Science Church relied on Medicare and Medicaid benefits and built a health care system that assists thousands of men and women. At a time when the Health Care Finance Administration has expressed increasing concerns about fraud and abuse in Medicare and Medicaid, there are no complaints about

the Christian Science Church. Members of the church only ask to practice their religion without unnecessary interference.

Last summer, however, a Minnesota district court determined that the provisions in the Medicare and Medicaid statutes onto the Christian Science Church are unconstitutional. As Judge Kyle stated in his opinion, "legislative accommodation of religious beliefs is a valuable and worthy enterprise, but here * * * the accommodation has gone too far and too strongly favors the convictions of one particular sect."

However, the court also recognized the fundamental injustice that Christian Scientists were required to pay the taxes for Medicare and Medicaid, but could not receive the benefits of these programs. The court also recognized the purpose underlying the original statutes. The court clearly identified the statutory language referring to the church as the problem, not the goal of providing comparable benefits to those who disavow traditional medical treatment because of their religious beliefs.

The provision in the reconciliation bill meets this goal without undermining the Constitution. All references to the Christian Science Church are eliminated. The provision will grant reimbursement for secular nonmedical nursing services to any person who, because of religious beliefs, does not believe in medical care and relies on faith healing in a religious nonmedical health care institution. As with other aspects of this health care system, the Health Care Finance Administration will closely monitor the provision for fraud, abuse, and public health concerns.

The chairmen of the House and Senate Judiciary Committees, the chairman of the House Ways and Means Committee, the chairman of the Senate Finance Committee, and I have worked closely to ensure the constitutionality of this provision.

This provision meets the worthwhile goals of the original Medicare and Medicaid laws, while meeting constitutional concerns. It deserves to be enacted into law so that the needed benefits will continue to be available.

FOOD STAMPS FOR CROSS-BORDER NATIVE AMERICANS

Mr. JEFFORDS. Mr. President, I know it is too late for Chairman ROTH to include this change in the manager's amendment, but I did want to raise it before we finish here today.

As the chairman knows, thanks to a provision in both the Finance and Ways and Means packages, native Americans who are entitled to cross the U.S. border under the Jay Treaty are not affected by last year's welfare law restrictions on providing SSI to aliens. Unfortunately, due to jurisdictional considerations, neither the Finance nor the Ways and Means Committees included food stamps in this provision. Preliminary estimates indicate that such an inclusion would not incur significant cost.

I understand Senator LUGAR is supportive of the inclusion of food stamps and I hope the chairman and ranking member will work with me and other Members during conference with the House to include a food stamp modification.

Mr. SMITH of New Hampshire. Mr. President, I rise today to commend my colleagues on the Armed Services Committee and the Finance Committee for having the courage to follow through on a promise the Government made long ago to career military personnel. I know the future of health care for elderly military retirees is an issue that deeply concerns many of us, and I am pleased that we have found a financially responsible solution to the growing problem of health care access for this group of retired personnel.

With the Defense Department expected to complete full implementation of the Tricare medical plan within the year, many retirees, who made it their lives' work to defend our freedom, face the certain loss of medical benefits when they turn 65 unless Congress acts now. As a member of the Armed Services Committee, I am deeply disturbed by this prospect. That is why I have consistently supported responsible initiatives to guarantee the future of DOD health care for Medicare-eligible military retirees.

In New Hampshire, I have witnessed firsthand the impact of defense downsizing on health care resources for this vulnerable population. When Pease Air Force Base closed in 1991, thousands of aging retirees were left to compete with active duty personnel and military retirees from neighboring States for fewer spaces in the New England DOD health care system. Once Tricare takes hold, this group will lose any remaining access to the military system they now enjoy because the Defense Department can no longer afford to offer these retirees the medical benefits they were promised. This is unacceptable.

After 4 years of meetings, hearings, and failed legislative initiatives, the Senate has finally reached a workable solution to the health care crisis now facing Medicare-eligible military retirees. Medicare subvention, as the plan is known, will allow the Defense Department to seek reimbursement from Medicare for the cost of treating eligible retired military personnel. By authorizing the DOD to carry out a 3-year Medicare subvention test program, the Senate has taken a decisive step toward restoring military retirees' faith in the country they honorably served. I am pleased to have supported Medicare subvention since the proposal's inception, and I look forward to working with my colleagues in the coming years to ensure that our Government does not shirk the responsibility of providing elderly military retirees with the quality, affordable health care they deserve.

I thank the chair and I yield the floor.

MEDICARE SUBVENTION

Mr. INHOFE. Mr. President, throughout each year we address a number of Medicare issues. This year, we have a Medicare issue within the reconciliation bill which is related to military health care, specifically, Medicare subvention. Without Medicare subvention, military treatment facilities cannot receive reimbursement from Medicare for care the facilities provide to military retirees who are also eligible for Medicare. With Medicare subvention, we can continue to improve the quality of life for military personnel, their families, and retired service members and their families by providing them with alternative access to treatment.

Because health care is such an important aspect of quality of life in the military, it is imperative that we continue to provide our military personnel and retirees with the access which they were promised. Currently, because the access of military retirees age 65 and over is on a space-available basis and due to overcrowding of military treatment facilities, finding adequate medical care has proven increasingly difficult if not impossible. Clearly, this is not a trend we want to continue if we hope to retain and recruit the quality and quantity of men and women needed to fight and win wars in the future.

Medicare subvention would fulfill the commitment made to our former service members by allowing Medicare to reimburse the Department of Defense [DOD] for care provided to members who are Medicare-eligible beneficiaries. I believe that Medicare subvention would be fiscally beneficial to Medicare and would make available an important revenue source that will enable and encourage DOD to provide care to over-65 retirees. Further, Medicare will save money because DOD can provide care less expensively than civilian providers. This is clearly a win-win situation for both the DOD and Medicare.

Clearly, ending access to military medical facilities when beneficiaries reach an age when they will most need it is fundamentally unfair. Our veterans have earned our support, and they deserve the best access to medical care that we can make available. I believe that Medicare subvention is a necessary step in the right direction, and I fully support the Medicare subvention provisions found in the reconciliation bill.

FOOD STAMP NUTRITION EDUCATION

Mr. SANTORUM. Mr. President, I support the amendment offered by the Senator from Texas, and I commend her for her diligent work in fighting

fraud in the Food Stamp Program. I would also like to thank her for working with me to address a concern of mine with regard to food stamp nutrition education.

For 2 years, the Reading Terminal Farmers' Market trust participated in a partnership with the USDA to develop a community-based nutrition education program in Philadelphia. Using a Federal share to match private grants from the Knight, Pew and Kellogg Foundations, the trust established the Philadelphia nutrition education network to integrate nutrition education into ongoing food distribution and health programs. The Philadelphia School District, Allegheny University of Health Sciences, WIC, the Archdiocese of Philadelphia and others were engaged as partners in the network, which reached over 17,000 children and adults in 1996.

By all accounts, this program was a success; and last summer, when the one-time cooperative agreement with USDA expired, the Trust sought to continue their important work under the existing food stamp nutrition education program. In June 1996, the Trust submitted a food stamp nutrition education plan requesting matching funds for a nutrition education plan in four low-income communities and at the Reading Terminal Market. Unfortunately, USDA regulations only permit a Federal match for local or State government funding. Since the Reading Terminal Farmers' Market Trust relies upon private contributions to fund their programs, USDA determined that they were not eligible to participate in the food stamp nutrition education program.

Since last summer, my office has been working with Reading Terminal Farmers' Market Trust to find a way for this program to continue. It is my understanding that nutrition education programs in Vermont and New York City have encountered similar problems with USDA matching funds. I have worked with Chairman LUGAR of the Agriculture Committee and Senator LEAHY to craft an amendment that will address these problems, and I am grateful to the Senator from Texas for including this language as section 2 of her amendment.

The language in this amendment will enable nonprofits and State agencies to receive grants in order to operate nutrition education programs that are coordinated among a broad range of food distribution and social service providers. In order to reach the maximum amount of eligible individuals and to leverage private funds for this endeavour, private donations will be made eligible to match the Federal grant.

The amendment provides $600,000 for grants for each of fiscal years 1998 through 2001, and no individual grant may exceed $200,000.

This provision has the support of Agriculture Committee Chairman LUGAR and Senator LEAHY.

FINAL REGULATIONS ON SOCIAL SECURITY INSURANCE DETERMINATIONS FOR CHILDREN

Mr. JEFFORDS. Mr. President, during the consideration of this important bill, I would like to bring to your attention developments regarding the administration's recently released SSI regulations for children. Through sections 211 and 212 of Public Law 104–193, the Personal Responsibility and Work Opportunity Act of 1996, Congress established a new eligibility test requiring that children show the presence of "marked and severe functional limitations" to become eligible for Supplemental Security Income [SSI] disability benefits. Additionally, under these new rules up to 300,000 children who are currently eligible for SSI will undergo a redetermination assessment over the next several months.

On February 11, 1997, in an attempt to implement these provisions, the Social Security Administration issued interim final regulations that require a level of disability that meets or equals the listings of impairments criteria. As stated in a letter written by nine of my colleagues and me to the President in April, I believe this regulation establishes an overly severe standard that misinterprets the intent of Congress to reform the SSI program for children with disabilities. SSA's test would remove up to 135,000 SSI disabled children this year alone. Thus, thousands of severely disabled children would face a loss of needed SSI benefits—contrary to the will of Congress.

I believe the Social Security Administration should establish a comprehensive functional test at a stricter severity level than the former individualized functional assessment test, but one that does not harm children with serious disabilities. A test protecting children with severely disabling conditions—including those with one marked and one moderate condition—would accurately reflect the intent of Congress. The administration has estimated this test would terminate 45,000 children this year, and close to 250,000 over 6 years.

Mr. President, I have already heard from constituents in my State of Vermont whose children will soon lose their SSI benefits. These families have nowhere else to turn. Such predicaments present troubling moral and budgetary questions—how to provide for those families who are shut off from desperately needed SSI benefits, and whether these regulations will simply shift the costs of providing for children with disabilities from SSI to other Federal entitlement programs, or to the States as communities react to these troubling cases. Such cost shifting would eliminate any significant savings gained. Additionally, the loss of SSI benefits will force families to move their children to costly out-of-home placement, as parents would no longer have the financial support to stay at home and care for the disabled child.

This is a matter that I will be pursuing with the Administration with the intent of reconciling the Administration's interpretation with the regulations passed by Congress during the welfare debate last fall.

WELFARE-TO-WORK GRANT PROGRAM

Mr. HARKIN. The pending legislation provides $3 billion to establish a Welfare-To-Work Program and specifies the activities for which the funding may be used. The list of allowable activities does not allow assistance for education or training activities with the exception of on-the-job-training.

Mr. ROTH. That is correct.

Mr. HARKIN. Over the past several years I have met with a number of welfare recipients, caseworkers and others to discuss the issue of welfare reform in the State of Iowa. The discussions have also included a number of individuals who have successfully made the transition from welfare to self-sufficient employment. In many cases, the key to this successful transition was participation in post-secondary classroom training. I understand that the pending legislation prohibits use of the Welfare-To-Work Programs funds for this purpose but want to clarify that States may continue to use Federal funds received under the temporary Assistance for Needy Families Program or their own resources for post-secondary classroom training.

Mr. ROTH. The Senator is correct. TANF does have some restrictions on vocational education activities, however States may use these funds or their own State funds for the education and training activities described by the Senator.

Mr. HARKIN. I thank the Senator for making that clear. I have another question.

The Welfare-To-Work Program provides formula grants to States and requires States to develop a formula for distribution of the funds within the State in consultation with sub-State areas. However, it is not clear what types of entities are eligible to provide the welfare-to-work services and that States have flexibility on this score.

In 1989, Iowa established 11 Family Development and Self-Sufficiency Programs to work with welfare recipients with a history of long-term dependency on the program and those who were at risk of long term dependency. These projects, 10 at nonprofit organizations, have been evaluated and have demonstrated success in moving welfare recipients off of welfare and into self-sufficient employment. In addition, a number of community action agencies and community development corporations have also been working with welfare recipients on exactly the kind of

activities envisioned by the pending legislation.

I just want to make sure that a State may provide funding from the Welfare-To-Work Program to entities such as community action agencies, community development corporations and other nonprofit organizations.

Mr. ROTH. That is correct. States may provide funding to these types of organizations.

Mr. HARKIN. I thank the Senator.

Mr. GRAMS. Mr. President, when Congress and the President reached agreement on the broad outlines of plan to balance the Federal budget, I had hoped that I could stand before the Senate during debate on the reconciliation legislation and proudly announce my full support. It is with deep regret, Mr. President, that I cannot. After careful examination of S. 947, the Balanced Budget Act of 1997, I have come to the conclusion that this legislation is good for Washington but bad for the taxpayers, and because it is not in the best interests of the working Americans we represent, I must reluctantly oppose it. Here are the major grounds on which I base my decision.

As I have said in previous statements before this Chamber, I have made the pursuit of a balanced budget my top priority in Congress, and have always said that I would support a budget plan that meets three specific criteria: First, it must shrink the size and scope of Government and return money—and the power those dollars represent—to the taxpayers; second, it must balance the budget by the year 2002 with steadily declining deficits each year without the use of rosy economic scenarios; and third, it must provide meaningful, broad-based tax relief to working families.

Tax relief, of course, will be dealt with in the other half of the reconciliation package. While there are many good provisions included in the bill, this so-call spending reduction legislation still fails to meet those pro-taxpayer standards.

First and foremost, like the budget agreement on which this reconciliation legislation is based, this bill does not shrink Government and return power to the taxpayers. In fact, it does the opposite; it increases mandatory spending. In the next 5 years, total mandatory spending would increase from $825 billion in 1997 to $1.1 trillion in 2002, a growth of 32 percent. Over the next five years, Medicare will increase at a rate of 6.1 percent and Medicaid will increase nearly 7 percent each year from the inflated baseline. Instead of eliminating wasteful spending to reduce the Federal deficit, this budget plan actually creates numerous new programs, including $34 billion in new entitlement programs funded by the taxpayers' hard-earned dollars.

In doing so, the plan has erased all of the savings achieved in last year's landmark welfare reform legislation. The reconciliation legislation includes about $24 billion in spending for new children's health care initiatives, while adding back $14.2 billion in welfare benefits for legal aliens and food stamp recipients.

Under this legislation, the Federal Government will spend $1.2 trillion on welfare alone over the next 5 years. That is $15 billion higher than the CBO projected. Of every dollar collected by the IRS, 14 cents goes to welfare programs, with less than 1 cent dedicated to tax relief for working families.

The fundamental flaw of the bill and the major source of my opposition to it is the new entitlement programs it creates. Such spending is a serious mistake at a time when we should control the explosive growth of mandatory spending and reduce the size of the Federal Government. History tells us that earlier entitlement programs started small, with perhaps the best of intentions, but have since exploded and now consume about 70 percent of all Federal revenues. To my disappointment, Washington has still not learned its lesson.

Second, Mr. President, despite some positive changes, including structure changes in Medicare, the entitlement programs remain intact. This not only breaks our promise to the American people on fundamental entitlement restructuring, but also ensures that big Government lives on by allowing Washington to avoid the hard choices it must make to address our long-term fiscal imbalances.

Without fundamental changes, the imbalance between the Government's entitlement promises and the funds it will have available to pay for them will eventually shatter our economy. In its recent report, "Long-Term Budgetary Pressures and Policy Options," the Congressional Budget Office warns us that if these long-term budgetary pressures are not relieved, Federal budget deficits would mount and could seriously erode future economic growth. The Federal deficit would increase from 1.4 percent of GDP, or $107 billion today to 30 percent of GDP in 2035, nearly $11 trillion. The debt held by the public would increase from 50 percent of GDP, or $3.9 trillion in 1996 to 250 percent of GDP, $91 trillion in 2035. Such rapid growth of the Federal debt and deficit will bankrupt this great Nation.

This gloomy picture has been confirmed by the recently released report of the Social Security and Medicare boards of trustees. Without clear changes in public policy to address the financial imbalance, the hospital insurance fund, one of the Medicare trust funds, will be bankrupt in just 4 years. The Medicare trust fund will run a deficit of $13 billion this year. By 2001, it will run a deficit of $49 billion and go broke. The disability insurance trust fund will be bankrupt in 2015, and Social Security trust funds will be bankrupt in 2029. And we do not have any clear and agreed public policy to address this imbalance.

Although the proponents of the legislation claim that it will avert the crisis of Medicare bankruptcy until 2007, the fix is temporary and is no more than tinkering with the system. Accounting gimmicks are also applied to extend the life of Medicare. It shifts home health care from part A to part B and use the general account to cover the deficits of the trust fund. This means a surge of new spending in Medicare in the future that taxpayers will be obligated to fund.

Third, unlike the Balanced Budget Act produced by the Republican Congress in 1996, this Balanced Budget Act does not result in steadily declining deficits, because the savings are achieved not through honest accounting but through rosy economic scenarios. Although this legislation claims over $117 billion savings in Medicare and $8 billion in Medicaid, all of the spending cuts result from a baseline projection of Government spending in which programs are assumed to grow according to such factors as the rate of inflation, population growth, and formulas written into the law.

Any honest budget plan must reach balance through steadily declining deficits every year; in other words, the deficit must be lower each year than the preceding one. This 5-year budget agreement actually increases the deficit for the first 2 years, then projects enough of a reduction in the final 2 years to reach balance. The deficit under this budget will go up by $23 billion next year, from $67 billion this year to $90 billion, and remain as high as $90 billion in 1999. Over 70 percent of the deficit reduction will not occur until after President Clinton leaves the White House. A significant percentage of the plan's deficit reduction results from optimistic economic assumptions, not sound policy changes.

A budget plan must also be based on real numbers and not the inflated budget estimates that have been used in the past to justify more spending and higher taxes. This budget agreement fails on that score as well by continuing to use the inflated budget estimates of the past to mask the spending increases it contains. I cannot support a budget that uses such gimmicks simply to make the numbers add up on paper.

In its analysis of the budget, the Heritage Foundation concluded that "a credible plan to balance the Federal budget must result in a smaller Government that costs less and leaves much more money in the pockets of working Americans. The current reconciliation bill not only fails these important tests, but in many cases would implement policies that are worse than taking no action at all."

Our current sound economic growth has reduced the budget deficit to a 17-year low without any fiscal constrains and reforms. We should use this historic opportunity to balance the budget in less than 5 years, start to pay back our $5.4 trillion national debt, and address our long-term fiscal imbalances. Unfortunately, we have once again missed this opportunity.

Mr. President, under the legislation before us, Washington will spend more of the taxpayers' hard-earned dollars creating new entitlement programs, while expanding old programs just to please the big-spending politicians and the special interest groups they feed. That is not the budget the taxpayers of Minnesota are expecting. That is not the budget Congress owes America's working families. But that is the budget Washington claims is the right answer. I regret that I do not agree, and cannot therefore support the spending portion of the budget reconciliation legislation.

AMENDMENT NO. 445

Mr. SPECTER. Mr. President, I would like to take this opportunity to explain my vote in opposition to the motion to waive the Budget Act for consideration of the substitute amendment offered by Senator REED.

To its credit, the Reed substitute did not contain the Medicare home health care/copayment language or the 65–67 Medicare age eligibility language in the reported bill. I voted against both of those provisions on independent votes yesterday and continue to be concerned about their inclusion in S. 947.

Notwithstanding those elements of the Reed amendment, I could not support it because it failed to include an important provision or medical savings accounts for Medicare beneficiaries.

EXEMPTION FROM AUCTIONS FOR PUBLIC SAFETY RADIO SERVICES AND ALLOCATION OF SPECTRUM FOR PUBLIC SAFETY AND PUBLIC SERVICE ENTITIES

Mr. BRYAN. Mr. President, I rise in support of the proposal to ensure that sufficient radio spectrum is made available for public safety and maintenance of the Nation's critical infrastructure, such as pipeline, railroad, and electric, gas and water utility services. With the success of spectrum auctions for commercial radio services, the FCC has been reluctant to allocate sufficient spectrum for these vital services. This legislation will expand the FCC's authority to auction spectrum, but not at the expense of entities that we have entrusted to protect the safety of life, health and property and to provide essential public services.

In adopting rules for the use of this new spectrum, I hope the FCC will promote the development of shared public safety/public service radio systems. In Nevada, it was recognized several years ago that it would be prohibitively expensive for any one public safety agency or public service utility to build and maintain a state-of-the-art 2-way radio system to cover this vast territory and provide the service features these various agencies need. Several key public service and public safety organizations took the initiative to pool their resources to build a system that would share backbone infrastructure, such as mountaintop repeater sites and radio frequencies. Through software partitioning, each user has its own discreet and secure virtual private network on this shared infrastructure. The parties first had to secure waivers of the FCC's rules so that nongovernment entities could share public safety frequencies on a not-for-profit basis. Initial system users include the Nevada Department of Transportation, University of Nevada law enforcement personnel, City of North Las Vegas, Sierra Pacific Power Company, and the Nevada Power Company. Other utilities and state and local government agencies are also looking to partner in the system, which currently covers more than half of the State's geography.

Shared public safety/public safety radio networks such as the one we have pioneered in Nevada have many advantages: First, joint use of a system is a spectrally efficient; second, during disasters and emergencies, there is a great need for interoperability between emergency response agencies and public service utilities that is easily accommodated on the shared system; third, equipment can be loaned from one entity to another on an as-needed basis during specific emergencies or special situations; fourth, other agencies and utilities can be added to the system without system duplication of facilities; fifth, smaller, rural agencies can access state-of-the-art technology that would otherwise be beyond their reach; and sixth, taxpayer and utility ratepayer costs can be significantly reduced.

Does the Senator from Arizona agree that these shared public safety/public service radio networks should be promoted?

Mr. MCCAIN. Yes, I agree. I would also like to offer my support for the allocation of new spectrum for use by public safety and public service organizations, and would urge the FCC to adopt rules that would facilitate, if not promote, the development of shared radio systems by such entities. I also know that Senators STEVENS, LOTT, and BURNS have been very concerned and involved in this issue. I look forward to working with them and Senator BRYAN to ensure that the Commission takes such action as necessary to deal with this subject and I am also hopeful that we can, if needed, clarify any problem with this language in conference.

WHAT IS RIGHT FOR MEDICARE

Mr. DORGAN. Mr. President, the votes on this reconciliation bill included two votes on spending cuts in the Medicare Program. The two controversial amendments dealt with increasing the eligibility age for Medicare from age 65 to 67 and income-testing of Medicare for upper income beneficiaries.

I support the change that will result in substantial savings through reduction of Medicare reimbursements to providers. I also agree with other changes that will improve and streamline the program.

However, I voted against the proposal included in the committee's bill which would increase the eligibility age from 65 to 67 and the proposal to impose a means-test for higher-income beneficiaries.

I am willing to consider supporting both of these proposals under the right conditions, which I will describe below but I think it is inappropriate to be making Medicare cuts on the spending side of reconciliation in order to make room for larger tax cuts on the revenue side of reconciliation.

Whatever changes are made in Medicare should be made exclusively and specifically for the purpose of extending the solvency of Medicare—not for the purpose of providing additional room for tax cuts, the bulk of which are proposed to go to upper income earners in the United States. We must look at the right ways to keep Medicare solvent without breaking faith with the country's senior citizens.

Asking senior citizens who make more than $50,000 to pay higher prices for their Medicare policies so that investors who make $500,000 can be given tax cuts seems inappropriate to me. There's no denying a direct connection when the Medicare proposals are made in the context of a reconciliation bill that includes spending and taxing. The act of achieving Medicare savings then becomes intertwined with the desire for tax cuts on the revenue side.

The reconciliation bill specifically calls for a commission to make recommendations on long term changes necessary to ensure the solvency of the Medicare Program. I support that and I hope that such a commission will be established quickly and will ultimately result in solid recommendations which the Congress can then act on quickly.

When we are able to look at recommendations which are developed specifically for the purpose of extending Medicare solvency, then I am willing to consider changes to Medicare, including means-testing and/or increasing the eligibility age under the following conditions.

First, with respect to increasing the eligibility age, if and when we do that, we must be prepared to respond to the question of what happens to those senior citizens whose incomes are inadequate to pay the higher cost of private health care insurance between age 65 and 67 when they would no longer be

covered. Changing the eligibility age from 65 to 67 without providing some mechanism to provide for the availability of affordable insurance coverage for the citizens in that age group would simply mean we have millions more uninsured Americans. Low income senior citizens between the ages of 65 and 67 will never be able to afford the kind of premiums that will be assessed by the health care industry to insure people of that age. So, the eligibility age increase cannot simply be considered on its own as it was in the reconciliation bill. Nor can it be argued that the increase in the eligibility age parallels the increase in the social security retirement age. The ramifications are very different for increasing the medicare eligibility age.

Second, with respect to means-testing or income-testing, as it is called, I am willing to support means-testing for Medicare, but again, only on the condition that the means-testing itself is done for the purpose of extending the solvency of Medicare and not part of a reconciliation bill that is designed to cut spending in a way that will accommodate additional tax cuts.

The temptation is too great for those in Congress who never supported the Medicare bill in the first place. It is a concern of mine that the proposed changes to Medicare in this bill are there not for the purpose of increasing the solvency of Medicare, but rather are there to accommodate tax cuts for upper income Americans. This, in my judgement, undercuts the Medicare Program.

AMENDMENT NO. 428

Mr. MCCAIN. Mr. President, I am proud to have cosponsored amendment No. 428, which will significantly reduce fraud, abuse, and waste in the Medicare system. This is an issue which I have been working on for many years and I am pleased to have been joined in this battle to combat fraud and abuse in our health care system by my colleague from Iowa, Senator TOM HARKIN.

This important amendment introduced by Senator HARKIN incorporates portions of my legislation, the Medicare Whistleblower Act S. 235, which would assist Medicare beneficiaries with identifying provider fraud in the Medicare system.

Over and over again, I have heard from seniors about their personal experiences with fraudulent and negligent billings throughout the Medicare Program. Many of these seniors say that their Medicare bills frequently include charges for medical services which they never received, double billings for a specific treatment, or charges which are disproportionate and severely marked up. Usually, most of these seniors have no idea what Medicare is being billed on their behalf, and they have no way to obtain a detailed explanation from the Medicare providers.

These personal stories from senior citizens are confirmed by analyses and detailed studies. According to the General Accounting office, fraud and abuse in our Nation's health care system costs taxpayers as much as $100 billion each year. Medicare fraud alone costs about $17 billion per year which is about 10 percent of the program's costs.

This is quite disconcerting, especially in light of the financial problems facing our Medicare system.

A fundamental problem with the Medicare system is that most beneficiaries are not concerned with the costs of the program because the Government is responsible for them. One of my constituents shared with me an experience he had when his provider double-billed Medicare for his treatment and the provider told him not to be concerned about it because "Medicare is paying the bill." This is an outrage and we cannot allow this flagrant abuse of taxpayer dollars to continue. Remember, when Medicare overpays, we all over-pay, and costs to beneficiaries and the taxpayers spiral while the financial sustainability of the program is violated.

The amendment addresses this fundamental problem in the Medicare program by strengthening the procedures for detecting and identifying fraud and waste in the Medicare system. Beneficiaries would be given the right to request and receive a written itemized copy of their medical bill from their Medicare health care provider. This itemized bill should be provided to the beneficiary within 30 days of the provider's receipt of their request. If anyone knowingly fails to provides a beneficiary with an itemized bill they will be subject to a civil fine. Once the beneficiary receives the itemized bill they would have 90 days to report any inappropriate billings to Medicare. The Medicare intermediaries and carriers would then have to review the bills and determine whether an inappropriate payment has been made and what amount should be reimbursed to the Medicare system.

I recognize that provider fraud is not the sole source of waste and abuse in the Medicare system, and I wholeheartedly support other initiatives which address beneficiary fraud. However, studies indicate that provider fraud is most prevalent and the greatest concern for the system, making initiatives such as this one which specifically target provider fraud very important.

It is imperative that we put an end to the rampant abuse and fraud in the Medicare system. I wholeheartedly believe that this provision would contribute significantly to this effort.

Mr. LIEBERMAN. Mr. President, the reconciliation bill contains provisions that impact most of the programs and services provided by the Federal Government. Few people in the United States are not touched in some way by the changes we have voted for during this debate. I would like to touch upon just a few of the provisions.

The bill includes significant progress toward protecting the Medicare Program. Without the changes included in this legislation, the Medicare trust fund would go bankrupt in 2001. The changes include the first major structural changes to Medicare in its 30-year history. The Senate bill modernizes Medicare by offering seniors the option of choosing from among a range of quality private health plans in addition to existing fee-for-service Medicare. It includes important new health insurance coverage for the Nation's children. It returns a degree of protection for people who live and work in our country, but because of foreign birth are not citizens of the United States.

The bill makes substantial advances in ensuring that Medicare and Medicaid beneficiaries can get comparative information to help them choose the best available health care plan for their needs. An amendment I sponsored with Senators CHAFEE, JEFFORDS, KERREY, BREAUX, WYDEN, and KENNEDY requires that includes comparative information on benefits, cost sharing, premiums, service area, quality and performance including disenrollment, satisfaction, health process and outcomes, grievance procedures, supplemental benefits, and physician reimbursement method be provided to Medicaid recipients in managed care. In many cases, Medicaid managed care plans have significant differences in the treatment of asthma, immunization, heart disease, diabetes, and other problems endemic to the Medicaid population. This amendment should assist Medicaid beneficiaries in choosing high-quality plans, and through competition among plans, increase the quality of all.

The bill also included an important demonstration program for Medicare based on the Government's own employee health care plan. That demonstration program includes provisions to improve the quality of health care for Americans based on a bill I sponsored, S. 795, the Federal Health Care Quality, Consumer Information and Protection Act.

The dramatic drive of millions of people into managed care was all geared toward stopping unacceptable cost increases in healthcare. Now cost increases have slowed and it is time to focus on quality. Congress has made some initial, spasmodic efforts, such as last year's drive-through delivery legislation. The health care quality provisions in this demonstration program represents an effort to take a more comprehensive and durable approach to improving health care quality.

The Government has a powerful tool we think has gone unused—its purchasing power. The Federal Government is the single biggest purchaser of health care in the country. If we use that purchasing power wisely, the quality of health care in the country will be pulled upward dramatically. If we don't, the Federal Government will drag down the efforts the private sector is making to improve their employee's quality of health care.

If the bill passes, the Government will only purchase Medicare coverage in this demonstration program that satisfies two requirements:

First, plans will have to provide information that allows people to make straightforward plan-to-plan comparisons of health care quality. With that information, Medicare beneficiaries could look up the plans in their area to see which had the best record of care for the elderly. Empowering consumers with comparative quality information would force health care plans to compete continuously and aggressively on quality resulting in ongoing health care improvements.

Second, all health care plans in the demonstration would have to meet certain minimum criteria or they couldn't be purchased by the Federal Government. Setting uniform federal criteria provides a powerful tool to address quality issues that emerge from the rapidly evolving health care industry. Existing accrediting agencies like the National Committee on Quality Assurance for Quality Assurance [NCQA] or the Joint Commission on Accreditation of Healthcare Organizations [JCAHO] could be licensed to certify that the health care plans are in compliance with the minimum criteria which should minimize bureaucratic duplication.

Finally, to hold this proposed system together and prevent the standards from becoming outdated, an Office of Competition is created within the U.S. Department of Health and Human Services. The Director of the Office of Competition will set and update the basic requirements for comparative data and minimum criteria. They will also work out a formula to pay for value. High quality plans will get paid slightly more than low quality plans.

The Director will draw on the expertise already developed by large private purchasers and coordinate with them in improving the purchasing requirements over time.

The stakes are high. This year over $1 trillion, almost one-seventh of the economy, will go toward health care services. Purchasers, both private and public, need to demand quality from the health care marketplace. Today you can identify a good stereo, a good car, or a good shampoo. But, you can't get the most basic information about the quality of your healthcare. That lack of information on health care quality is no longer acceptable, it can be fixed, and the Government should join the best corporate purchasers in the repair effort.

I am deeply concerned about one aspect of the Medicare package that is included in this budget reconciliation bill. The Senate Finance Committee has enacted a series of reforms that would dramatically change the methodology by which payments are made to Medicare managed care plans as well as the new plans envisioned in the bill. This new payment structure would result in a redistribution of Medicare resources that is very beneficial to areas that have low health care costs and very damaging to areas where the delivery of health care services is much more costly.

In my home State of Connecticut, seniors in four of our eight counties would suffer from Medicare managed care payments that, under this bill, would decline by more than 20 percent relative to current law. Don't misunderstand—I support actions to keep the Medicare trust fund solvent. But these reformulations don't just produce savings—they fundamentally shift expenditures from high cost to low cost areas. In one Connecticut county, this legislation would extract 57 times more savings from seniors enrolled in managed care than would the House Ways and Means Committee bill, which achieves similar savings. These are sobering figures—and they do not even take into account the impact of the bill's risk adjustment mechanism, which would automatically reduce Medicare payments by an additional 5 percent for all new managed care enrollees in their first year of enrollment.

This legislation over-reaches in seeking to achieve a greater measure of geographic equity in the Medicare payment system. Instead of making the modest adjustments that are needed to improve the fairness of the current system, this bill calls for sweeping reforms that would disrupt the coverage of many seniors in order to help others.

Tragically, many of those who would be hurt the most are low-income seniors who already have selected Medicare managed care plans because they need the additional benefits—such as prescription drug coverage, and dental and vision care—and the low out-of-pocket costs that many of these plans offer. These low-income seniors cannot afford to expose themselves to the high deductibles and copayments of the Medicare fee-for-service system, nor can they afford to purchase an expensive supplemental Medigap policy.

As I consider this issue, I think about the many areas in Connecticut that have suffered from economic downturns in recent years and, even today, are not enjoying the strong economic growth that is evident throughout much of the country. Seniors in these areas are particularly vulnerable. Considering that a disproportionate number of Medicare managed care enrollees are low-income seniors, I believe we should proceed carefully as we contemplate reforms that affect their coverage. For many of these seniors, a reduction in their Medicare benefits would cause severe financial hardship.

I want to emphasize that I have no desire to be involved in any contest that pits the Medicare beneficiaries of Connecticut against those of Iowa, Nebraska or any other State. I completely support the expansion of new health care choices to all seniors, regardless of where they live. I am convinced, however, that this can be accomplished without awarding 60-percent payment increases for certain low-cost areas—many of which tend to be sparsely populated—at the expense of other areas where large numbers of seniors are already enrolled in private health plan options. The number of seniors who would be penalized by this shortsighted approach far exceeds the number who would benefit.

I strongly believe that a more cautious, thoughtful approach is warranted. For example, a 70/30 blend between local and national payment rates would go a long ways toward eliminating the disparities that currently exist—without causing massive cuts in certain areas. In addition, a minimum annual update for all plans, combined with some kind of link between growth in fee-for-service spending and managed care spending, would help to assure that the resources available to Medicare managed care plans do not fall hopelessly behind the growth in medical inflation. It is totally unrealistic to think that we can allow payments to decrease in certain areas—while actual costs are increasing by 5 or 6 percent annually—without having any adverse affect on seniors.

As we move forward with Medicare reform, we need to acknowledge that it is, in fact, more costly to serve Medicare beneficiaries in some areas of the country than others. There are legitimate reasons why it costs more to deliver health care services in densely populated urban areas. The wages of medical personnel and the capital costs of medical facilities differ considerably from region to region and from State to State. Even within individual States, medical costs vary from county to county. To discount this economic reality, as this legislation does, is sheer folly.

Perhaps the most troublesome component of this Medicare payment proposal is the new enrollee risk adjustment mechanism. This provision arbitrarily and automatically reduces Medicare payments by 5 percent for all new managed care enrollees—regardless of their age or health status—in their first year of enrollment. I have

serious concerns about the implications of this proposal. How are we supposed to promote competition within the Medicare Program if we begin by saying that everyone who leaves the fee-for-service system will be subject to a 5 percent penalty? This new enrollee tax will limit beneficiary choice by discouraging health plans from entering markets in which seniors do not have private health plan options at this time. Everyone in this chamber should be deeply alarmed by this misguided provision.

Having given this Medicare payment proposal an honest and thoughtful evaluation, I am convinced that we should work toward a more sensible and well-reasoned approach when this legislation is considered in the Senate-House conference committee. I want to state very clearly that I do not have a problem with the amount of Medicare savings this legislation would achieve; I just believe we have an obligation to achieve these savings in ways that do not disrupt the coverage of seniors. I urge my colleagues to join me in calling for a new approach.

AMENDMENT NO. 460

Mr. McCAIN. Mr. President, I am proud to have offered an amendment to the budget reconciliation package which provides incentives for States with expanding access to health care coverage under the Medicaid system to devise innovative and cost effective programs. This amendment is important to any State interested in best serving the health care needs of its people.

My amendment authorizes the continuation of a State's Medicaid managed care program operating under a section 1115 waiver. States would have the option of requesting an automatic extension of their waiver program for 3 years or permanently continuing their waiver managed care program if it has successfully operated for at least 5 years and has demonstrated an ability to successfully contain costs and provide access to health care.

In addition, this amendment allows these same States to utilize their own resources to revise their programs and expand coverage, while reducing both State and Federal costs.

The amendment will assist States in expanding health care coverage to their most vulnerable populations. This is something Congress has spent a great deal of time talking about during this session of Congress in terms of children. But children are not the only ones for whom health coverage is a priority. There are still millions of people in this country who live below the poverty line who do not have coverage. Unfortunately, we often forget about these individuals.

Several States have led the way in innovation for expanding coverage through cost containment: Tennessee, Oregon, Rhode Island, Hawaii, and Arizona. My home State, Arizona, was the first to recognize that improved quality, better access and reduced costs could be achieved through the appropriate use of managed care as an integrated approach to health care for low income people.

These States have summoned the political will and marshaled their State resources to improve their health care programs while reducing both State and Federal costs. Many new States are now following the examples set by the pioneers and have filed statewide section 1115 waiver requests to move their programs into managed care.

In Arizona, 72 percent of the voters decided last fall that health care should be available to everyone under the poverty line. Arizona already covers children up to 133 percent over the poverty line. This means Arizona decided to cover the 50,000 men and women without children who live under the poverty line. This is their only hope of health care coverage.

Unfortunately, the administration has recently erected additional barriers to Arizona's initiative. In spite of the substantial savings documented by Health Care Financing Administration [HCFA] evaluators since the program began in 1982, more than enough to offset the cost of expanding coverage, the administration would not allow Arizona to reinvest these savings it achieved over a traditional fee-for-service program in expanded coverage. Nor will HCFA allow the State credit for their program's expected savings over the next 5 years.

States like Arizona which have successfully been operating under an 1115 Medicaid waiver should not be penalized for a change in Federal guidelines which occurred after the program began. No one is questioning whether these States have saved the Federal Government millions. Arizona, Tennessee, Hawaii, Rhode Island, and any other State with such a proven track record, should be allowed to use the managed care savings it achieved over a traditional fee-for-service program to expand coverage for their most vulnerable populations.

This important amendment assists States in providing access to health care for the most vulnerable populations.

MEDICAL RESEARCH

Mr. HARKIN. Mr. President, I would like to submit for the RECORD some of the many letters I have received in support of Senator D'AMATO's and my amendment to S. 947, the Balanced Budget Act of 1997, to create a medical research fund. These letters show the widespread grassroots support for this amendment which would expand support for medical research above and beyond what is currently being done at the National Institutes of Health [NIH].

The people behind these letters understand what many recent studies have demonstrated—that investments in medical research can both save lives and lower Medicare costs through the development of more cost-effective treatments and by delaying the onset of illness. They understand that while health care spending devours nearly $1 trillion annually, the United States devotes less than 2 percent of its total health care budget to health research. These letters are from people that understand the importance of increased funding for biomedical research. I ask unanimous consent that these letters in support of the medical research amendment be submitted for the RECORD.

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

Thank you.

AMERICAN ASSOCIATION FOR CANCER RESEARCH, INC.,
Philadelphia, PA, June 25, 1997.

Hon. TOM HARKIN,
Hon. AL D'AMATO,
Hon. ARLEN SPECTER,
Hon. CONNIE MACK,
Hon. TOM DASCHLE,
Hon. BARBARA BOXER,
Hon. JAY ROCKEFELLER.

DEAR SENATORS: Bluntly, while debate rages over the budget, 1 mother, father, brother, sister or friend dies every 57 seconds in this country from cancer.

On behalf of the 14,000 cancer researchers searching for treatments, cures and prevention weapons in this country and the 1.3 million people who get cancer every year, we urge you on in your quest to find more funding for research and education!

The medical research amendment you are proposing is essential to continue to find resources to support the growing underfunded research programs at the NIH.

It is essential amendments like this pass to support all of our efforts to build a healthy America.

Sincerely,

DONALD S. COFFEY, Ph.D.,
President.

PARKINSON'S ACTION NETWORK,
Santa Rosa, CA June 25, 1997.

Hon. TOM HARKIN,
Hon. ARLEN SPECTER,
Hon. CONNIE MACK,
Hon. ALFONSE D'AMATO,
Hon. JOHN D. ROCKEFELLER,
Hon. BARBARA BOXER,
Hon. TOM DASCHLE.

DEAR SENATORS: Thank you for your efforts to increase funds provided to the National Institutes of Health through the creation of a Health Research Fund.

A million Americans suffer from Parkinson's disease, a neurological disorder that causes increasing tremor, stiffness and slowness of movement, eventually leaving us unable to move or speak. I have lived with Parkinson's for ten years, watching Parkinson's increasingly disable me, and seeing others like former Congressman Mo Udall lose the battle to the point of total immobility. The human suffering that results from Parkinson's is immense and incalculable, but this condition also produces a fiscal nightmare: Parkinson's is estimated to cost at least $25 billion a year in medical care, disability benefits, assisted living and lost productivity. The cost is so high because we typically live in a disabled state for a long time, and the

battle against less of function is ongoing and expensive.

Meanwhile, there is immense scientific promise, with Parkinson's described by scientists as "one of the brightest spots in brain research." Nonetheless, the research is in slow motion, stymied by inadequate funding: the federal research budget for Parkinson's totals only about $30 million or $30 per American afflicted. The current federal policy on Parkinson's wastes billions in public and private dollars coping with the effects of the disease, when millions of dollars could be put toward finding a cure.

The Congress is moving toward a dramatic reversal in this policy, by support for the Udall Parkinson's Research bill, which would authorize $100 million to adequately invest in this research. The bill is co-sponsored by 57 Senators and 202 Congressmembers, and we expect to see it enacted very soon. This momentum could be derailed by the present allocation for health programs in the 1998 budget agreement. If not corrected this year in appropriations for the National Institutes of Health, the present funding disparity almost surely will continue, leaving the human and fiscal nightmare to go on unabated.

Your amendment can fix this funding problem, return fiscal sanity to this policy, and give hope to our struggling and desperate community today.

Thank you from the bottom of our hearts for your efforts.

Sincerely,

JOAN I. SAMUELSON,
President, Parkinson's Action Network.

CYSTIC FIBROSIS FOUNDATION,
Bethesda, MD, June 25, 1997.

Hon. THOMAS HARKIN,
Hon. ALFONSE D'AMATO,
Hon. ARLEN SPECTER,
Hon. CONNIE MACK,
Hon. THOMAS DASCHLE,
Hon. BARBARA BOXER,
Hon. JOHN ROCKEFELLER.

DEAR SENATORS, Today, there are more than 30,000 children and young adults in the United States suffering as a result of cystic fibrosis. There is a way to stop this—Medical Research.

Your amendment is vital to the support of finding treatments and ultimately the cure for this devastating disease.

Just at a time when there are so many possible breakthroughs, grants cannot be funded, contracts are not given, clinical trials go unfunded, and education programs do not begin.

As a nation, as parents, we simply cannot let nearly 80 percent of our research opportunities slip away or be delayed.

The one approved program that we do not fund may hold the cure.

Sincerely yours,

ROBERT J. BEALL, Ph.D.,
President and CEO.

RESEARCH SOCIETY ON ALCOHOLISM,
Austin, TX, June 24, 1997.

Hon. TOM HARKIN, Hon. ALFONSE D'AMATO, Hon. ARLEN SPECTER, Hon. CONNIE MACK, Hon. TOM DASCHLE, Hon. BARBARA BOXER, Hon. JOHN ROCKEFELLER,
U.S. Senate,
Washington, DC.

DEAR SENATORS: On behalf of the 1,100 members of the Research Society on Alcoholism, I am writing to unequivocally support the Medical Research Amendment. The Research Society on Alcoholism is a professional research society whose members conduct basic, clinical, and psychosocial research on alcoholism and alcohol abuse.

Alcoholism is a tragedy that touches all Americans. One in ten Americans will suffer from alcoholism or alcohol abuse. It's cost to the nation is nearly $100 billion annually. Research holds the promise of developing effective methods for the prevention and treatment of this far reaching disease.

The Medical Research Amendment is an answer to the problem of desperately needed research funds. An investment of this type will create the ability for the National Institutes of Health to fund grant applications that will lead to advancements in all areas of health research. At this time of unprecedented opportunities in alcohol research, this amendment provides much needed assistance.

Thank you for your support of the research community. Please do not hesitate to contact me if I can be of assistance in any way.

Sincerely,

IVAN DIAMOND, Ph.D.,
President.

COLLEGE ON PROBLEMS OF
DRUG DEPENDENCE, INC.,
Richmond, VA, June 24, 1997.

Hon. TOM HARKIN,
Hon. ALFONSE D'AMATO,
Hon. ARLEN SPECTER,
Hon. CONNIE MACK,
Hon. TOM DASCHLE,
Hon. BARBARA BOXER,
Hon. JOHN ROCKEFELLER,
U.S. Senate, Washington, DC.

DEAR SENATORS: The College on Problems of Drug Dependence (CPDD) is the leading scientific society in the field of drug abuse. On behalf of our nationwide membership I am writing to lend our support to the Medical Research Amendment. Our commitment to research advances and their positive implication for the future is strengthened by this amendment and its commitment to the research community.

An estimated 30 million Americans suffer from drug and alcohol addiction. Alarmingly, of the 59 million women of child bearing age, nearly 5 million are using illicit drugs such as marijuana, cocaine, and heroin. Economically, drug and alcohol abuse cost this country more than $1600 billion annually. Research is the answer to understanding this complex and devastating problem.

The Medical Research Amendment is the answer to a long standing problem facing the United States, the undervalued commodity of research. Research can provide us with the elusive answers to questions of addiction, drug abuse, and treatment. This amendment is an investment in the future of America and not just the National Institutes of Health.

Thank you for your support of research and its advances. Please do not hesitate to contact me if I can be of assistance in the future.

Sincerely,

ROBERT L. BALSTER, Ph.D.,
Public Policy Officer.

COLLEGE OF PHYSICIANS &
SURGEONS OF COLUMBIA UNIVERSITY,
New York, NY, June 25, 1997.

Hon. ALFONSE D'AMATO,
U.S. Senate, Hart Senate Office Building, Washington, DC.
Hon. TOM HARKIN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATORS AL AND TOM: On behalf of Columbia University College of Physicians and Surgeons, I wish to express our support for the amendment offered by Senators D'Amato, Harkin, Specter, and Mack to provide additional funds over appropriated amounts for the National Institutes of Health that is being offered to the Budget Reconciliation Bill.

Current amounts for NIH are truly insufficient to fulfill the objectives of NIH and the promise of biomedical research. We have the opportunity to find the genetic basis of disease and cures for illnesses such as Parkinson's, cancer, diabetes, and others that afflict millions of Americans. The contributions potentially offered by this amendment will save millions of lives and billions of dollars.

Support for biomedical research is one of the most important investments Congress can make in the health and welfare of our citizens. All of us in academic medicine thank you for your leadership and vision.

Sincerely,

HERBERT PARDES, M.D.,
Vice President for Health Sciences, and Dean of the Faculty of Medicine.

THE NATIONAL COALITION
FOR CANCER RESEARCH,
Washington, DC, June 25, 1997.

Hon. TOM HARKIN,
Hon. ALFONSE D'AMATO,
Hon. ARLEN SPECTER,
Hon. CONNIE MACK,
Hon. JOHN D. ROCKEFELLER,
Hon. BARBARA BOXER,
Hon. TOM DASCHLE,
U.S. Senate,
Washington, DC.

DEAR SENATORS: The 55,000 cancer researchers, nurses, physicians, and health care workers, tens of thousands of cancer survivors and their families; 40,000 children with cancer and their families, 82 cancer hospitals and cancer centers across the country, and more than 2 million volunteers who make up the National Coalition for Cancer Research commend your medical research amendment to the fiscal year 1998 Senate Reconciliation Bill.

It is the Coalition's central conviction that the solution to the complex problems surrounding cancer—the reduction in morbidity, mortality, and the high costs of medical care—will come in a stepwise manner from the generation of new knowledge through research. Additional federal support for cancer research as provided by your Health Research Fund will abet the human and financial costs of cancer.

We must remember that despite the declining death rates of the past few years, in the United States, men have a 1 in 2 lifetime risk of developing cancer, and women have a 1 in 3 risk. Cancer is still the second leading cause of death and is expected to be the leading cause of death by the turn of the century. The direct costs of health care services to cancer patients is currently estimated at more than $104 billion annually and is increasing each year. The generation of new knowledge through research into the molecular events involved in the cause and progression of cancer should lead to increasingly effective means of protection and treatment, the only means to stop the spread of disease, and curtail these costs.

The Coalition recognizes that the Congress is pressed with securing savings in the Medicare and Medicaid programs, and applauds your attention to the need to invest in biomedical research to stop the spread of diseases which cause long term care costs. The Coalition commends your amendment which

secures additional resources for biomedical research because, without doubt, research is the gateway to progress against cancer.

Thank you for seizing this opportunity now to do something of utmost importance for our country.

Sincerely,

ALBERT H. OWENS, Jr.,
President.

NATIONAL DOWN SYNDROME SOCIETY,
New York, NY, June 25, 1997.

Hon. TOM HARKIN,
Hon. ALFONSE D'AMATO,
Hon. ARLEN SPECTER,
Hon. CONNIE MACK,
Hon. THOMAS DASCHLE,
Hon. BARBARA BOXER,
Hon. JOHN ROCKEFELLER.

DEAR SENATORS: One in every 800 children is born with Down Syndrome and there are over 350,000 people with this condition in the U.S. today. It is the most commonly occurring chromosomal abnormality, resulting when an individual possesses three, rather than usual two, copies of the 21st chromosome.

Medical research supported by the National Institutes of Health is our only hope in developing better therapeutics to treat those individuals who have Down syndrome and to help us better understand the causes of this disease so we can one day prevent it from occurring. The National Down Syndrome Society has just entered a historic public-private research initiative with the National Institutes of Child Health and Human Development to examine behavior and cognitive development of individuals with Down syndrome. This project is an important first step in increasing our understanding of this disease.

Thank you for your efforts and commitment to ensuring the longterm viability of our medical research infrastructure. We support your efforts to establish a National Fund for Health Research to ensure the NIH has the resources necessary to continue to advance medical science in the United States.

Sincerely,

MYRA E. MADNICK,
Executive Director.

ALLIANCE FOR AGING RESEARCH,
Washington, DC, June 25, 1997.

Hon. TOM HARKIN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR HARKIN: The Alliance for Aging Research, an independent not-for-profit organization working to improve the health and independence of older Americans, applauds and strongly supports an amendment to establish a National Fund for Health Research. We understand this fund would be established in the Treasury to expand support for medical research through the National Institutes of Health.

As you know, the Alliance has consistently made the case that the most effective means to achieve savings in Medicare and Medicaid is by improving the health status of older Americans. The most effective long-term strategy is to advance biomedical research and to apply what we learn to improved geriatric health management and prevention of chronic disease. Studies released this year from Duke University show a steady decline in chronic disability since the 1980s among this nation's older population, saving Medicare billions of dollars.

In a special report presented by the Alliance to the White House Conference on Aging, we stated that by postponing physical dependency for older Americans by just one month would save the nation $5 billion a year in health care and nursing home costs. Postponing the onset of Alzheimer's Disease by just five years would, in time, save $50 billion a year in health care costs. And a five-year delay in the onset of cardiovascular disease could save an estimated $69 billion a year.

Your amendment would be a first step toward fulfilling the commitment made by the Senate through the Mack Sense of the Senate calling for a doubling of the NIH in the next five years. We understand this would in no way take the place of the Congressional appropriations to the NIH.

Unless we discover better ways to treat, prevent or postpone diseases of aging, the costs to the nation will grow exponentially in the decades ahead. Again, I commend you and your colleagues invaluable support for a strong national investment in medical research.

Best regards,

DANIEL PERRY,
Executive Director.

AUTISM SOCIETY OF AMERICA,
Bethesda, MD, June 25, 1997.

Hon. TOM HARKIN,
Hon. ALFONSE D'AMATO,
Hon. ARLEN SPECTER,
Hon. CONNIE MACK,
Hon. THOMAS DASCHLE,
Hon. BARBARA BOXER,
Hon. JOHN ROCKEFELLER.

DEAR SENATORS: I am writing on behalf of the Autism Society of America to support your amendment to establish a National Fund for Health Research with additional savings that may result from changes made by the Balanced Budget Act which exceed the savings called for in the Budget Resolution. As the amount of discretionary funds available for medical research funding continues to shrink, we must find other ways to ensure that our research infrastructure is maintained.

Autism is a developmental disability that typically appears during the first three years of life. It is believed to be a genetically-based neurological disorder that affects more than 400,000 individuals in the United States, making it the third most prevalent developmental disability. Autism is four times more prevalent in boys than girls, and knows no racial, ethnic nor social boundaries. Family income, lifestyle, and educational levels do not affect the chance of autism's occurrence. The estimated health care cost associated with autism is greater than $13 billion a year.

At the present time, there is no prevention, treatment, or cure for autism. Our only hope in better understanding autism is through research. NIH is embarking on many exciting research endeavors focused on autism. In fact, NIH Director Harold Varmus has said numerous times that the time is right for autism research—we now have the tools to help us begin to unlock the mysteries of this disorder.

We appreciate your commitment to identify an additional source of funding for medical research and for giving individuals with autism the hope that through research we will find a treatment and cure.

Sincerely,

SANDRA H. KOWNACKI,
President.

DEPRESSIVE AND MANIC-DEPRESSIVE ASSOCIATION,
Chicago, IL, June 25, 1997.

Hon. TOM HARKIN,
Hon. ALFONSE D'AMATO,
Hon. ARLEN SPECTER,
Hon. CONNIE MACK,
Hon. THOMAS DASCHLE,
Hon. BARBARA BOXER,
Hon. JOHN ROCKEFELLER.

DEAR SENATORS: Medical Research is critical to individuals suffering for depressive illnesses. On behalf of the more than 65,000 members of the National Depressive and Manic-Depressive Association I am writing to support your amendment to establish a National fund for Health Research.

Depressive illnesses are treatable diseases. Without the research advances we have seen over the last 20 years, many individuals suffering from depressive illnesses would not have the opportunities they have today to participate as contributing members of our society. New therapeutics which have been developed through research are giving them this chance.

In any given year, 17.4 million American adults have some form of depressive illness such as major depression, bipolar disorder, or chronic, moderate depression. These conditions account for more than $148 billion in direct health care costs, and indirect costs. Such as lost work days for patients and care givers. Investments in biomedical and behavioral research on mental disorders are imperative for preventing and treating these debilitating illnesses and controlling the costs associated with them.

Thank you for your efforts to expand our national commitment to medical research!

Sincerely,

LYDIA LEWIS,
Executive Director.

Mr. BIDEN. Mr. President, this budget bill—which would put us on a path to eliminating the budget deficit in the year 2002—contains numerous reforms of the Medicare program. In addition, the bill would restore short-term solvency to part A of Medicare—the part that pays hospital bills and will otherwise be bankrupt in 4 years. I have no objection to most of the Medicare reform provisions, and I will vote for this bill overall.

However, I want to talk briefly about two provisions that I oppose and explain why I voted to take them out of this bill.

First, Mr. President, this bill would raise the age at which a person becomes eligible for Medicare from the current age 65 to age 67. I voted to keep the eligibility age at 65. While this increase would be gradual and would be phased in over the next 30 years—so it would not affect any current seniors—I think it moves us in the wrong direction. What we should be doing is making sure that more, not fewer, people have health insurance.

Changing the current law so that today's workers will have to wait until they are 66 or 67 before they become eligible for Medicare threatens to add millions of people to the rolls of the uninsured. It is my understanding that 70 percent of Americans who retire between the ages of 60 and 65 will have no health insurance through their employers. If they have health insurance at

all, they are paying exorbitant rates to buy it on their own.

Increasing the eligibility age for Medicare by 2 years would leave most of these people unprotected for 2 more years. This result is totally counter to why we created Medicare in the first place: To make sure that older Americans have access to health care services when they are likely to need it the most. Raising the eligibility age for Medicare without addressing the issue of those who will lose—or those who will continue not to have—health insurance is a glaring gap in this proposal.

Now, it has been argued by supporters of this change that because the Social Security retirement age will gradually increase to age 67, the eligibility age for Medicare should increase at the same time. But, Mr. President, there is no rational basis for linking Social Security and Medicare. They are two separate and distinct programs. If it is good policy to raise the Medicare eligibility age to 67—which I do not think it is at this time—then those arguments need to be presented. It is not good enough simply to say, "Well, that's what we're doing with Social Security." And, I should note, that even when the Social Security retirement age increases, people will still have the option of early retirement at age 62. That is not the case with Medicare. It is all or nothing. And, we should not tell people between 65 and 67 that they get nothing.

The second provision that I opposed would have—for the first time—imposed means testing on higher income seniors. Under the plan, the monthly premiums for Medicare part B, which pays for doctor services, would have been based on how much income a person has. Now, I have long said that I believe it is not unfair or inappropriate to have wealthy seniors pay more for their Medicare coverage. So I support means testing in principle. But I am not sure that the means testing scheme in this bill is either fair or appropriate—and I think we ought to be sure of both before we make such a significant change in this program.

This legislation was just drafted last week. Until noon yesterday—Tuesday—this bill would have charged wealthier seniors higher deductibles under part B. But, then at midday, just a couple of hours before we voted on this issue, the bill was changed so that retirees with greater income would pay higher premiums, not higher deductibles. The fact that this last minute change was made just exemplifies the problem of trying to address this issue with haste.

The premium increases in this budget bill are very substantial, and they would hit individuals with incomes over $50,000 and couples with incomes over $75,000. But we really do not know yet what the effect of these increases would be on these families, or on the Medicare system itself. This is why we need to proceed with greater caution.

What we do in this budget bill—and what we must do—is what we have done many times in the last 30 years: Make the changes necessary to ensure the solvency of the Medicare Hospital Trust Fund over the next 10 years. To address the long-term concerns once the baby boom generation reaches retirement age, I have previously called for the establishment of a bipartisan commission to study the situation and make recommendations. This bill establishes just such a commission, and instructs it to report back to Congress in a year.

My point is that neither the increase in the Medicare eligibility age nor means testing are necessary to solve the short-term financial problems of the Medicare system. Instead, these are issues that the new commission should look at. In making significant changes to the Medicare program—among the most successful Federal programs ever—we need to do so with great thoughtfulness and deliberation.

These changes have no immediate impact on the Medicare trust fund or on our general goal of balancing the overall Federal budget by 2002. In short, there is no reason why we cannot wait until we have the benefit of the recommendations of the bipartisan commission—within the next year—before we take action of this nature. That is why I supported taking these changes out of the budget bill, and why I supported Senator REED's alternative Medicare proposal to make only those changes needed to make sure that Medicare remains financially solvent.

MEDICARE PROVISIONS

Mr. MCCAIN. Mr. President, the Senate took several difficult votes in the last 2 days related to Medicare reform. After carefully considering each of the amendments offered in the Senate, I cast my vote in favor of preserving and protecting the long-term solvency of the Medicare system.

I voted for an amendment to eliminate the bill's provisions which would require means testing of Medicare premiums. I also voted for an amendment which would have simply delayed the implementation of premium means testing until the year 2000. I believe it is foolish to hastily make such a drastic change as this without the benefit of an indepth study of the entire Medicare Program. Unfortunately, both of these amendments failed.

I am concerned about the bill's provisions which would delay the eligibility age for Medicare to 67 from the current age of 65. However, the bill would not implement this change until the year 2003, which will not affect current beneficiaries and, I believe, will allow us to assess this change within the context of a larger study of the program.

The bill does establish a bipartisan commission to study the entire Medicare Program and make recommendations for the changes necessary to keep the program solvent beyond the year 2001, which is when the trustees have reported the program will be bankrupt. I believe we should wait for the commission's recommendations before enacting any fundamental changes to the program. However, I felt it was important to show a willingness to consider taking a first step toward long-term structural changes in order to give impetus to the commission's work.

The budget reconciliation bill before the Senate contains many key provisions to expand benefits under Medicare and incorporate choice and competition into the current program. For example, the bill authorizes Medicare coverage of mammography screening, colorectal screening, bone mass measurement, and diabetes management. It also creates a Medicare Choice Program and a demonstration program for medical savings accounts for seniors. It contains provisions designed to eliminate waste and fraud in the Medicare system which could result in significant savings. These are improvements to Medicare for which I have fought for many years.

I believe firmly that our priority must remain protecting the Medicare system from bankruptcy by the year 2001, and I will continue to work toward that goal.

AMENDMENT NO. 482

Mr. LEVIN. Mr. President, the Levin-Jeffords amendment increases from 12 to 24 months the limit on the amount of vocational education training that a State can count toward meeting its work requirement under the new Temporary Assistance for Needy Families Program. Under the old welfare law, recipients could attend postsecondary vocational education training for up to 24 months. I strongly support the new law's emphasis on moving welfare recipients more quickly into jobs, but I am troubled by the law's restriction on vocational education training, limiting it to 12 months. Two-year community college study, for instance, would not meet the requirement.

Mr. President, the limitation on postsecondary education training raises a number of concerns, not the least of which is whether persons may be forced into low-paying, short-term employment that will lead them back onto public assistance because they are unable to support their families.

Study after study indicates that short-term training programs raise the income of workers only marginally, while completion of at least a 2-year associate degree has greater potential of breaking the cycle of poverty for welfare recipients. According to the U.S. Census Bureau, the median earnings of adults with an associate degree are 30 percent higher than adults with only a high school diploma or its recognized equivalent.

Mr. President, let me just give some examples. The following are jobs that a person could prepare for in a two-year community college program and the salary range generally applicable to the positions:

NATIONWIDE

Accounting, $14,000–$28,000.
Computer technician, $14,000–$31,000.
Law enforcement, $13,500–$25,000.
Dental hygiene, $18,000–$60,000.
Respiratory therapy tech, $21,000–$32,000.

MICHIGAN

Computer programing, $24,800–$42,900.
Radiology technician, $22.235–$32.425.
Legal assistant, $28,630–$30,000.
Child care development (supervisor), $23,590–$29,724.
Registered nurse, $24,400–$38,135.

Mr. President, the National Governors Association recognizes the merits of this amendment and has called for its passage. I urge my colleagues to support it because it will help us reach the new law's intended goal of getting families permanently off of welfare and onto self-sufficiency.

In closing, I ask unanimous consent to have printed in the RECORD two articles that are relevant to this issue which appeared in the February 17, 1997, USA Today and the June 1, 1996, New York Times.

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

[From USA Today, Feb. 17, 1997]

COLLEGE OFF LIMITS IN WELFARE PLAN

(By John Ritter)

States rushing to get welfare recipients off the rolls and into jobs are telling some college students on public assistance to drop out and find work.

Under the old welfare system, recipients of cash grants could go to school full-time. The new law, with its emphasis on moving welfare recipients quickly into jobs, restricts educational options.

Short-term job training and a year of vocational education are approved "work activities" under the new federal law, passed last year, but regular college and community college study are not.

So even as President Clinton preaches education as the route to prosperity, welfare reform is forcing recipients—predominantly single mothers—to forsake school for low-paying jobs.

States must put bigger proportions of their welfare caseloads to work—25% this year, 50% by 2002—or lose funds.

"The emphasis has shifted from how can we retrain people or pick up where their education left off to how can we move them into work," says Elaine Ryan of the American Public Welfare Association.

By one estimate, as many as 700,000 single parents on welfare are enrolled in higher education and training.

In California, 125,000 welfare recipients attend community colleges. The City University of New York system has 20,500 welfare students.

Schools already are lobbying state legislatures to find ways to keep these students and their tuition reimbursements.

But prospects are not bright.

[From the New York Times, June 1, 1996]

WORKFARE RULES CAUSE ENROLLMENT TO FALL, CUNY SAYS

(By Karen W. Orenson)

New rules introduced by New York City Mayor Rudolph Giuliani's administration that require all welfare recipients to work have led thousands of students to drop out of college or not enroll, according to officials at the City University of New York. The decline in enrollment is significant, CUNY officials say, because studies show that college gives people on welfare a good chance to get better jobs at higher pay.

Mr. DOMENICI addressed the Chair.

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

Mr. DOMENICI. Mr. President, let me take 1 minute, and then we are going to final passage. I want to thank everybody for their cooperation. Under a very difficult process and procedure, I think we did very well. On a number of issues, there was great bipartisan support. I thank those on the other side of the aisle who have supported this overall package, and I hope the vote is overwhelming. Tonight we complete the first step of three legs. The three legs are to get the deficit down by reducing spending; second is for us to get a good tax bill for all Americans; third is to do the appropriations bills in a manner that is consistent with the agreement and which doesn't violate the Budget Act.

I believe this is a historic beginning, and I am very pleased to be part of it. I thank everyone here for their role. I thank all eight committees that assumed their burden and produced their reconciliation package. Mostly, I thank Senator ROTH, the chairman of the Finance Committee, and Senator MOYNIHAN, his Democratic manager, and all those on the Finance Committee who worked to produce a bipartisan bill.

The lesson learned is that we can get things done that are difficult but good for the American people in a bipartisan way if we just work at it. I believe the best example we have of that is the Finance Committee this year. All the other committees had lesser responsibilities, but they provided their savings without rancor and with almost unanimity and, if not, a unanimity of spirit. I believe there is no process that would have let us in the U.S. Senate get this much work done. If this bill were freestanding and the tax bill were freestanding without the protections of the Budget Act, I just ask you to dream about what might happen. First, I think each bill could take 4 or 5 weeks, I think the amendments could run into the hundreds, and the bill could look like something completely different by the time we finished than what we started with. So we take some bad with the good in this difficult process called the reconciliation bill.

I thank the ranking member of the Budget Committee not only for the work here on the floor, but actually as we moved through the last 3½ months, Senator LAUTENBERG has been very good to work with, and we produced a good package, which will show up here in a bipartisan vote tonight. I thank the Senator. We produced a good bill.

Mr. LAUTENBERG addressed the Chair.

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

Mr. LAUTENBERG. Mr. President, I will be brief. I sense that everybody would like to hear a long speech, but I am going to disappoint them. I just want to say, Mr. President, that I, too, enjoyed my work with the distinguished chairman of the Budget Committee. We managed to resolve all of our problems without too much dispute, without any confrontation. There wasn't a moment that we walked out on anything. This reconciliation bill is consistent with that. We did, as it was appropriately noted, rush through some things. But that does not at all, in my view, suggest that we rushed through and didn't have the appropriate knowledge or review of the items that we were processing.

I thought it was a job very well done. I must say, if we didn't have some time constraint on this, Heaven knows how long we would all be here. We would see summer come and go and we would still be debating.

Again, I enjoyed the process and my first time at bat with the Budget Committee in the position that I have. I thoroughly enjoyed it. I hope that Senator DOMENICI will, as my ranking member in the not-too-distant future, also enjoy it. I promise to be cooperative.

I want to thank the staff of the Policy Committee, but particularly my senior staff here—Bruce King, Sander Lurie, Nell Mays, Marty Morris, Amy Abraham, John Cahill, Jodi Grant, Matt Greenwald, Phil Karsting, Sue Nelson, Jon Rosenwasser, Jim Klumpner, and Mitch Warren—who did a terrific job, as I know Bill Hoagland and his team did. I won't go through the names, but I will say that I have gotten to know them and respect them and admire the work they have done. I thank everybody for their cooperation, particularly my colleagues on this side.

Mr. DOMENICI. Mr. President, Senator GRAMM would like 30 seconds.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I have heard a lot of people speak in my 13 years in the Senate, but I don't think I have ever seen anybody do a better job of taking complicated issues and explaining them in a very short time as Senator DOMENICI has done in the last 2 days. I think we have made history on this bill, and I think the Senator from New Mexico has been a very important part of that.

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 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.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 73, nays 27, as follows:

[Rollcall Vote No. 130 Leg.]

YEAS—73

Abraham	Feinstein	McCain
Allard	Ford	McConnell
Ashcroft	Frist	Moseley-Braun
Baucus	Glenn	Moynihan
Bennett	Gorton	Murkowski
Biden	Graham	Nickles
Bond	Gramm	Robb
Breaux	Grassley	Roberts
Brownback	Gregg	Rockefeller
Bryan	Hagel	Roth
Burns	Hatch	Santorum
Campbell	Hutchinson	Sessions
Chafee	Hutchison	Shelby
Cleland	Inhofe	Smith (NH)
Coats	Jeffords	Smith (OR)
Cochran	Kempthorne	Snowe
Collins	Kerrey	Specter
Conrad	Kohl	Stevens
Coverdell	Kyl	Thomas
Craig	Landrieu	Thompson
D'Amato	Leahy	Thurmond
DeWine	Lieberman	Warner
Domenici	Lott	Wyden
Enzi	Lugar	
Feingold	Mack	

NAYS—27

Akaka	Faircloth	Lautenberg
Bingaman	Grams	Levin
Boxer	Harkin	Mikulski
Bumpers	Helms	Murray
Byrd	Hollings	Reed
Daschle	Inouye	Reid
Dodd	Johnson	Sarbanes
Dorgan	Kennedy	Torricelli
Durbin	Kerry	Wellstone

The bill (S. 947), as amended, was passed.

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. ROTH. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. ROTH. Mr. President, in my opening statement, I thanked my good friend and colleague, Senator MOYNIHAN, my colleague on the Finance Committee, and our staff for their excellent work. I would be remiss, however, if I failed to conclude without again expressing my appreciation for these diligent professionals—men and women who work into the wee, wee hours, late nights, early mornings, and weekends to help us craft a bill that could find the kind of success that this has found on the Senate floor.

I would like to particularly thank the following majority and minority staff of the Finance Committee who worked so hard on this bill, including Lindy Paull, Frank Polk, Julie James, Dennis Smith, Gioia Bonmartini, Alexander Vachon, Dee Dee Spitznagel, Joan Woodward, Brig Gulya, Mark Patterson, David Podoff, Faye Drummond, Kristen Testa, Doug Steiger, Rick Werner, and Rakesh Singh.

Again, I am grateful for the outstanding work that they did. And I believe that it merits the thanks and gratitude of all of us.

REVENUE RECONCILIATION ACT OF 1997

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of S. 949, the Tax Fairness Act.

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

The clerk will report.

The bill clerk read as follows:

A bill (S. 949) to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998.

The Senate proceeded to consider the bill.

PRIVILEGE OF THE FLOOR

Mr. ROTH. Mr. President, I ask unanimous consent that the following Finance Committee staff members be granted full floor access for the duration of floor consideration of S. 949, the Revenue Reconciliation Act of 1997.

I include Mark Prater, Doug Fisher, Brig Gulya, Sam Olchyk, Rosemary Becchi, Tom Roesser, Joan Woodward, Julie James, Dennis Smith, and, in addition, I request full floor access for Ashley Miller and John Duncan of my personal staff.

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

Mr. ROTH. Mr. President, earlier this month I read an article by Dana Mack, a mother and the author of a new book, "The Assault on Parenthood: How Our Culture Undermines the Family." It was powerfully persuasive. Her thesis was that parents today love their families as much as, if not more than, ever—that today's parents are attentive and even more committed than those of an earlier generation but that they are pressed economically.

In her studies, Ms. Mack discovered that the most serious challenges faced by parents today are economic challenges.

Listen to her statistics. It costs the average American couple today twice—twice—the proportion of their yearly household income to pay the mortgage than it cost their parents; average Federal income payroll taxes rose from 2 percent of family earnings in 1950 to 24 percent in 1990; health costs have skyrocketed in the past 20 years, sending 4 to 5 million women to work for medical insurance alone.

Consider these statistics along with the one that has been repeated often in the debate over real tax relief—that American families pay more in taxes than they do for food, clothing, and shelter combined—and it becomes apparent how important this Taxpayer Relief Act of 1997 is. Tax relief is no longer a partisan issue, and I was encouraged by the spirited cooperation that was exhibited in the Senate Finance Committee as we deliberated and then reported this bipartisan bill out of committee.

Such a bipartisan effort allows me to stand on the floor and say without hype or hyperbole that today is, indeed, a historic day. It is historic because this proposal is truly bipartisan, and, as a consequence, Americans can look forward to their first significant tax cut in 16 years. It is historic because the Taxpayer Relief Act of 1997 is part of a budget reconciliation that will lead our Nation to a balanced budget in 2002.

And because of our efforts to ensure bipartisan cooperation, the Finance Committee bill we consider today contains a balanced and fair package of tax relief measures. It includes proposals important to both Democrats and Republicans, and it is structured to provide major tax relief—relief to America's hard working and overburdened families.

There were three criteria that guided our work. We wanted tax relief for middle-income families, tax relief to promote education, and tax relief to stimulate economic growth, opportunity, and jobs.

With these objectives in mind, we crafted a bill that includes a $500 per child tax credit, and an increase in the exemption amount for purposes of the alternative minimum tax, a provision that will save millions of middle-income families from experiencing the headaches of AMT.

We crafted a bill that contains tax measures to assist students and their parents in affording the cost of postsecondary education. These include the $1,500 Hope scholarship tax credit, a $2,500 student loan interest deduction, and a permanent extension of the tax-free treatment of employer-provided educational assistance.

We also included the tax-free treatment of State-sponsored prepaid tuition assistance plans, a new education IRA serving both education and retirement needs, tax incentives for teacher training and school construction, and a repeal of the tax exempt bond cap.

To promote savings, investment, and economic growth, we expanded IRA's.

We did this by doubling the income limits on the tax deductible IRA so that more families can set up an IRA. We expanded the spousal IRA. For the first time, homemakers will be able to save up to $2,000 annually regardless of their spouse's participation, in an employer pension plan. And we also created a new nondeductible IRA Plus account. A very important part of this IRA Plus is that it will allow penalty-free withdrawals for first-time home purchases and periods of long-term unemployment. And to promote investment and jobs we included a capital gains tax cut, dropping the top rate to 20 percent. This will create new incentives for venture capital.

For families, this bill offers relief from the estate tax, the tax that can rob a family of its farm or business when a father or mother passes away. To help these families, we raise the unified credit to $1 million per estate by 2006, and we provide tax-free treatment for family-owned farms and businesses for up to $1 million.

Each of these is an important step, Mr. President. The fact that these were included in a bipartisan proposal indicates that business as usual is changing in Washington. The Senate is willing to lay aside partisan politics to provide Americans with the kind of tax relief they need.

As with any bipartisan effort, not everyone will be fully satisfied with this proposal. For my part, I would like to see greater tax relief, and I consider this the first in a series of steps that I hope will lead to deeper tax cuts and eventual long-term reform. But this bipartisan effort signals an important beginning, one which is built upon a foundation of principles we share, whether we be Republican or Democrat.

Eighty-two percent of this tax relief is made up by our family tax cut and education assistance, priorities that we all share. As I have said, it represents the biggest tax cut in 16 years, tax relief that is focused on middle-income families.

But beyond these major tax cuts, our proposal contains a number of important smaller items. These include the extension of certain expiring tax provisions. For example, we extend the R&D tax credit, a credit that helps our exporters compete in world markets to maintain our leading edge in several key industries.

We make the orphan drug credit permanent and allow for contributions of full value of appreciated stock to charitable foundations. We also extend and expand the work opportunity tax credit to assist welfare recipients and others in getting jobs.

The Taxpayer Relief Act of 1997 contains a package of measures to help the District of Columbia get on its feet, including a reduced capital gains tax rate and a first-time homebuyer tax credit. It contains a guaranteed and secure source of funding for Amtrak to enable our national rail passenger system to move to privatization. And it also has a measure allowing taxpayers to expense the cost of cleaning up brownfields, as well as several measures to help taxpayers who have been victims of floods in the Upper Midwest. And finally, we offer tax simplification in the pension, individual, foreign, and small business areas.

Mr. President, this package includes several revenue raisers that partially offset the cost of the tax cut. The most prominent is an extension and improvement of the funding stream for our national aviation system and a 20-cent tax on cigarettes. Beyond these, we close loopholes in the foreign tax area, as well as in the area of corporate-owned life insurance and tax shelter reporting.

I wish to express my sincere appreciation for the spirit of bipartisanship that prevailed as we crafted this tax relief package. It has been a successful, productive experience because we have worked together, taking the recommendations and concerns of each member of the Finance Committee, as well as the recommendations of our colleagues outside of the committee, and we have put together a package that is workable, a package that will go a long ways toward offering relief, especially to America's overburdened middle class.

Now, I realize that in the course of debating this proposal in the Chamber there will be those who stand against this bipartisan bill. In a partisan effort, there will be those who attack this tax relief bill. Before they begin their arguments, however, I want to put them on notice. I want them to understand that the lion's share of the tax package—82 percent—goes for the family tax credit and the education package. Eighty-two percent is directed to middle-income families.

I want them to understand that according to the Joint Committee on Taxation, at least three-quarters or 75 percent goes to families making $75,000 or less, and at least 90 percent goes to families making $100,000 or less.

These are the facts, and they are understood on both sides of the aisle. They are understood by those who believe that the time has come to provide real, meaningful tax relief to hard-working families that have been overburdened for too long.

They are understood by those who realize, as President Clinton has said, that the era of big Government is over and now Washington must promote an environment where the genius of enterprise and the market economy can sustain long-term economic growth and bring jobs and security to families everywhere.

I began my remarks by quoting an article that highlights the economic strain placed on families today, and let me close by using three hypothetical Delaware families and show how the Taxpayer Relief Act of 1997 will benefit each of them.

Let's begin with a single mother whom we will call Judy Smith. Judy has two young children. She works as a legal secretary in Wilmington making $35,000 a year. Currently, she pays over $3,000 in Federal income taxes—over $3,000. Now, to put that into perspective, $3,000 is what her family of three will pay all year to buy the food they eat at home. In other words, Judy's paying the Federal Government what it costs to feed her family.

Now, when the Taxpayer Relief Act of 1997 becomes law, Judy's taxes will be cut by $1,000—$500 for each child. A third of her Federal tax liability will be gone. And what can Judy do with that extra $1,000?

I am sure she can think of a number of good uses, but if she wants—again thanks to the Taxpayers Relief Act of 1997—Judy will be able to set up education IRA's for her two children.

The second hypothetical family I want to introduce you to is a married couple, Jim and Julie Wilson. The Wilsons own a farm in Sussex County. They have three children. Jim works the farm and Julie is a homemaker. They earn $55,000 per year from their farm. Of that $55,000, they pay over $5,500 in Federal income taxes—fifty-five hundred dollars. That, Mr. President, is more than they will pay for all the food they consume at home during the year. After the Taxpayers Relief Act of 1997, however, the Wilson's taxes will be cut by $1,500—$500 for each child. Julie Wilson will be able to set up a homemaker IRA to save for her retirement.

If Delaware adopts a State-sponsored prepaid tuition plan, the Wilsons will be able to participate in the plan and save for their children's college education. Looking far ahead, if the farm prospers, Jim and Julie will be able to pass it on to their children free of the burden of the estate tax. All of these benefits to this middle-income family are contained in the Taxpayers Relief Act of 1997.

Finally, Mr. President, let's look at a young two income couple. We'll call then John and Susan Jones. They live and work in Dover, DE. College graduates, John is a veterinarian and Susan is a physical therapist. They make $75,000 and have one young child. Under current law, the Jones family pays about $11,500 in Federal income taxes. After we pass the Taxpayers Relief Act of 1997, the Jones will be able to deduct a portion of the interest on their student loans. They will receive the $500 per child tax credit, and they will be able to set up IRA Plus accounts for themselves and an education IRA for their child.

It is for families like these that we have created the Taxpayers Relief Act

of 1997. It is because of its fairness that this bill received strong bipartisan support in committee. I believe the Finance Committee fairly reflects the Senate as a whole—as well as the broad interests and concerns of the constituents our Members represent. This is their package. It delivers to the American people what they asked us to do in the last election—a bipartisan and fair return of the fiscal dividend accruing from a balanced budget.

I am grateful to all who worked so long as so well to draft this bill. I am grateful for Senator MOYNIHAN's leadership, as well as for the other members of the committee who allowed bipartisan cooperation to prevail throughout the process. And again, Mr. President—as I did yesterday—I thank the professional capable staff of the Senate Finance Committee for their countless hours and lost sleep. This was, indeed, an heroic effort, and it is my honor to bring it to the floor.

(Ms. COLLINS assumed the Chair.)

Mr. BYRD. Madam President, will the Senator yield if he has completed his statement?

Mr. ROTH. I will be happy to yield.

Mr. BYRD. Will the Senator indicate what the plan is for the rest of the day and tomorrow?

Mr. ROTH. It is my plan to continue for several hours this evening, probably until 9, 9:30, 10, come back in the morning around 9:30 and proceed throughout the day.

Mr. BYRD. When you say your plan is to continue to about 9 or 9:30 tonight—was that it?

Mr. ROTH. That is my thought now, yes.

Mr. BYRD. Will there be amendments called up?

Mr. ROTH. Yes, amendments will be called up, but there will be no votes tonight. They will be held over until the morning.

Mr. BYRD. What is the plan with regard to votes on tomorrow?

Mr. ROTH. There will be votes, hopefully, throughout the day.

Mr. BYRD. Beginning when?

Mr. ROTH. The first vote, I think, I would say to my good friend from West Virginia, would start around 9:30.

Mr. BYRD. Does the Senator plan to attempt to stack these votes this evening if amendments are called up?

Mr. ROTH. Yes. It has been announced by the leader that there will be no more votes tonight, so if we complete debate on any amendment, it would be stacked in the morning.

Mr. BYRD. I had not heard any announcement with regard to the modus operandi with respect to this bill, insofar as the evening is concerned, and actions on tomorrow.

What I am concerned about is it appears to me we are going to get ourselves right back in the same situation that we were in today with stacked votes and only a couple of minutes for explanations and some Senators like myself really not knowing what is in the amendments.

Mr. ROTH. I do not expect that many amendments to be raised tonight. I will say at most it will be one or two, and there will be time in the morning for the sponsors and opponents to review the pros and cons of the amendments.

I would, of course, urge Members to bring their amendments to the floor.

Mr. BYRD. I thought most Members were leaving when I saw them lined up for the vote. Does the Senator contemplate any point in time when all amendments will be presented to the Senate? Is there going to be a deadline of that, as to a time? I think in connection with the bill that was passed today, it seems to me that all amendments had to be offered before the close of business, or by the close of business, last evening. What is the plan in regard to this measure?

Mr. ROTH. We do not have any plan at this time to say amendments have to be submitted by such and such a time. But, of course, as you know, there is a 20-hour limitation on reconciliation. So, hopefully, everybody will bring their amendments down early so they can be considered early and we can avoid the situation that we had of a lot of Senators bringing their amendments at the end.

Mr. BYRD. How much time does the Senator plan to have between amendments on tomorrow for explanations of the stacked amendments?

Mr. ROTH. I hadn't really considered that.

Mr. BYRD. I am not trying to create problems for the Senator.

Mr. ROTH. No, I understand. I would say we would give 5 minutes to a side.

Mr. BYRD. Five minutes to a side?

Mr. ROTH. Yes; 10 minutes.

Mr. BYRD. That would be quite an improvement over what we have been seeing with only 2 minutes and so much noise in the Chamber it was difficult for Senators to hear what was being said in the 2 minutes.

Mr. ROTH. I think the situation, of course, arose on the legislation we just passed upon because people did not bring their amendments in until the last minute and then, under the rules, there is no more time. You know better than I, in a sense, giving 2 minutes goes beyond the rule.

Mr. BYRD. Well, could we have a limitation on the number of amendments that will be called up this evening and stacked for tomorrow morning?

Mr. ROTH. I suspect our real problem is going to be to get people down here to offer them. But I don't want to discourage anyone in the course, so I would prefer not to try to limit it, for that reason.

Mr. BYRD. Yes. Does the Senator have any idea how much time is going to be—there is a total of 20 hours on the measure. Does the Senator have an idea how much time we will have of the 20 hours on tomorrow?

Mr. ROTH. No, I can't really answer that.

Going back to your question about tonight, if we could bring up six tonight, that would be a maximum and I would be pleased at that.

Mr. BYRD. I realize the Senator is not in a position to make certain pronouncements that would be binding on others interested in the measure, but I am concerned lest we tomorrow find ourselves short of time; quite a number of votes that have been stacked, not much time for explaining those amendments and, in the final analysis, voting on the measures that we know very little, if anything, about. I am not talking about the Senator. He is on the committee. He knows what is in the amendments.

Mr. ROTH. No. I appreciate what the Senator is saying.

Mr. BYRD. I will probably have two amendments. One of my amendments—I may offer an amendment that will attempt to extend the time on reconciliation measures. So I might say to the Senator, I want to be able to call up that amendment tomorrow, if I am able to develop one in the short amount of time that we have.

I have another amendment that I have been working on, and I hope we could count on, say, 4 minutes equally divided between each amendment that is stacked, so we would get 2 minutes on a side. I find the explanations that are offered on amendments between votes are more edifying, in many instances, than the debates that went along earlier. Most Senators are able to capsule their remarks and focus more. But I really don't think a minute to a side is enough. I have seen some Senators cut off in the middle of sentences because the minute ran out. So, if we could say 4 minutes equally divided, would the Senator be agreeable to that?

Mr. ROTH. I would certainly be agreeable at this stage, I would say to the distinguished Senator. Once we utilize the full time, it is something I might want to review from time to time. But I understand what the former majority leader is saying, and I appreciate his reasoning behind it.

So, as far as the morning is concerned, I assure him there will be 4 minutes equally divided on any amendment.

Mr. BYRD. I believe that the rule with regard to reconciliation bills provides for 2 hours on any amendment.

Mr. ROTH. I think that is correct.

Mr. BYRD. And 1 hour on any amendment to an amendment. That being the case, if the Senators so chose, they could use up the 20 hours on several amendments.

Mr. ROTH. That is correct. That is, I guess, part of the basic structure of the reconciliation. I think, to be candid,

that was deliberately done at that time.

Mr. BYRD. Circumstances have changed since that measure was written.

Mr. ROTH. And we all learn from experience.

Mr. BYRD. I had a lot to do with writing that in 1974.

Mr. ROTH. You played a critical role.

Mr. BYRD. Things were different then. If I could foresee what I now see, looking backward, I probably would have changed it a little bit. But, in any event, I thank the distinguished Senator. I didn't want to intrude on his time or impose on him, but I am just concerned, as I said today, and frustrated—without complaining about any individual. I don't find fault with any individual.

Mr. ROTH. I fully understand.

Mr. BYRD. Every individual is acting in good faith. With that understanding that we will have 4 minutes equally divided between each amendment and there is no deadline at this point in time drawn with regard to the offering of amendments, I will yield the floor.

Mr. ROTH. I agree that on any amendments considered and stacked today, there will be 4 minutes prior to the votes tomorrow.

Mr. BYRD. I thank the distinguished Senator.

Mr. ROTH. I thank the Senator for the exchange.

Mr. MOYNIHAN. Mr. President, as we begin the debate on the second of two budget reconciliation bills called for under the concurrent resolution on the budget for fiscal year 1998, I again want to commend and thank the chairman of the Finance Committee, Senator ROTH, for the fine bipartisan manner in which he has led us this year. I look forward to that spirit of bipartisanship continuing today as we work toward the adoption of the tax bill by the full Senate.

It is my belief, although it is not much shared just now in Congress or in the White House, that this is no time for tax cuts. Just yesterday, in a report released by Treasury Secretary Rubin, the International Monetary Fund, in its annual review of the U.S. economy, stated that the United States should delay tax cuts "in order to achieve an earlier reduction in the budget deficit" and strengthen the credibility of the balanced-budget pact between Congress and President Clinton.

Were it up to this Senator, we would continue on the deficit reduction course begun in the Omnibus Budget Reconciliation Act of 1993, which has had extraordinary results. The economy is in its best shape in 30 years. CBO projects that the deficit will be $67 billion for fiscal year 1997, far below original estimates. Inflation was just two-tenths of 1 percent in May—equivalent to an annual inflation rate of only 2 percent. The unemployment rate stands at 4.8 percent, its lowest in more than a quarter century, and the Wall Street Journal reported today that the measurement of consumer confidence in the economy is at a 28-year high.

Given this success, we may well come to regret having enacted the tax cuts in this bill. Nevertheless, we do not have a majority in the 105th Congress. The congressional leadership and the President have agreed that there will be tax cuts this year. And so given that reality, I joined with other Democratic members of the Finance Committee in working with Chairman ROTH—in a bipartisan mode—to help shape the bill now before us. The resulting legislation is not altogether what some of us would prefer, but even so it does include a number of redeeming provisions.

I would particularly wish to commend and thank the chairman for the inclusion of the following provisions: Making permanent the single most successful tax incentive for education, the exclusion from income of employer-provided educational assistance under section 127. The Roth-Moynihan bill to make 127 permanent now has over 50 cosponsors, including all 20 members of the Finance Committee; repealing the cap on issuance of section 501(c)(3) bonds for universities, colleges, and nonhospital health facilities; providing $2.3 billion in funding for Amtrak by allocating one-half cent per gallon of the Federal gasoline excise tax; and extending the fair-market value deductibility of gifts of appreciated property to private foundations.

Mr. ROTH. Madam President, I say to my friends and colleagues, please come down and present your amendments. The bill is now open to amendment.

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Thank you very much, Madam President. I first want to congratulate the Senator from Delaware for an excellent bill he has put forward on an important topic. We are finally talking about tax cuts, something we should have been talking about for a long period of time, but we haven't since 1981. This is a great day. I think it is a great opening that we are finally doing something about the tax burden on the American people, where they are paying over 40 percent of their income in taxes. I congratulate the chairman of the Finance Committee for raising this.

Madam 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. BROWNBACK. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BROWNBACK. Madam President, as I was stating briefly earlier, I want to recognize the work of the Finance Committee chairman, who is doing an extraordinary job and doing something we haven't done since 1981, and that is cut taxes. We need to do this, we need to do it to stimulate the economy.

Mr. ROTH. Will the Senator yield?

Mr. BROWNBACK. Yes, I will.

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

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

POINT OF ORDER

Mr. BROWNBACK. Madam President, we have had some good discussions here. Looking at the overall tax cut bill that we have, which I think is very important that we do, I am congratulatory toward the chairman.

I chair the District of Columbia Subcommittee. We have really been looking strong at what we need to do in the District of Columbia to make us a shining city. The chairman has done an extraordinary job of including things like zeroing out capital gains on real property in the District of Columbia, something I think we ought to look at nationwide, but let us try it here first.

We also have in there a provision for new homeowners and new home buyers, a $5,000 tax credit provision in there for new home buyers in the District of Columbia to attract people back to Washington, DC, to make it a shining city.

Unfortunately, there is one other provision, section 602, in the bill that creates an economic development corporation—requires the creation of an economic development corporation—in order to access some of the tax credits. I have great difficulty with this entity. It is something that would have to be created by the District of Columbia Committee. It is an entity that would have condemnation authority. It is an entity that would have a broad base of authority, appointed by the President. It is in effect going to be a department of commerce for the District of Columbia with a lot more authority and a lot more power.

I do not think that survives the Byrd rule test, and I raise the point of order on section 602 of Senate bill 949 under the Revenue Reconciliation Act of 1997, the Byrd rule provision, because I believe these are extraneous. I think this is an ill-conceived concept even though I am very supportive of what the chairman has done overall for the District of Columbia. He is stepping up to solve the problem. But I do not think this provision is the way to go. I do raise a

point of order under the Byrd rule to that particular provision, section 602.

Mr. ROTH. Madam President, first, let me say that I appreciate the interest and concern expressed by my colleague from Kansas. I will and do hereby, under section 904 of the Budget Act, move to waive the point of order raised by him.

I urge that in the meantime he might work with my staff to see if we can develop some alternative that meets his concern with the present language and see if we cannot develop something that will move this proposition ahead.

Mr. BROWNBACK. Madam President, I will take those suggestions to heart and will see if we can work something out.

Let me again say one more time, this chairman—anybody in Washington, DC, watching this should be thankful for what he has done in stepping up and solving a tough problem of how we do make this a shining city again. I applaud that effort and will work with his staff to see if we can resolve particular concerns that he has before a vote tomorrow.

Mr. ROTH. I thank the Senator from Kansas.

The PRESIDING OFFICER. The motion to waive is pending.

Mr. ROTH. Madam President, I ask unanimous consent that it be set aside.

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

Mr. ROTH. At this time it is my pleasure to call upon my distinguished colleague from the State of North Dakota.

Mr. DORGAN. Madam President, I rise this evening to offer some amendments. I will do so and understand that they will be set aside for other business to be conducted after these amendments. I wanted to have an opportunity to discuss them, some of which I hope the chairman and ranking member will be able to support. Others I expect they will not.

But I do so with great respect. And I say, as I begin this process, that I was very impressed that the chairman of the Finance Committee, the Senator from Delaware, clearly sought bipartisanship and sought a working relationship with all members of the committee as he constructed the piece of legislation that is now on the floor of the Senate. I, for one, applaud him for that.

Some of the proposals in this piece of legislation I think are excellent proposals, I support them. Others, I would have written differently. And that is the purpose of offering some amendments. But generally speaking, I think the Senator from Delaware has done the Senate a service by saying, when the committee writes a bill, he wants to involve all members of the committee. Instead of, as is so often the case here in the Senate, having a political debate ending up with the worst of what each has to offer, reaching out and getting the best of what both sides have to offer on these issues makes a great deal of sense.

So I begin by paying my compliments to the manner in which the Finance Committee wrote this bill. As I said, some parts of the bill I support very strongly. Other parts, I would have written differently and would like to change. That is the purpose for this discussion.

MOTION TO REFER

Mr. DORGAN. Madam President, let me describe a motion to refer I intend to offer that I want to get a vote on as we proceed. It is a motion that would do the following:

We are proposing, and Congress will likely allow to become law, a series of tax cuts. I support some of these proposals. I want to be certain, however, that the direction that we are heading is a direction that will not explode the deficit in the outyears.

We are all familiar with the stories about the 1981 tax cut proposals and the discussion about the fiscal policy in which we then had less revenue but built up our military spending, double, and then entitlements continued to rise, and the result was we blew a real hole in the Federal deficit.

I am going to propose a trigger, in essence. I will do it, however, in a different manner. I will do it with a motion to refer the bill back to the committee with instructions to report back with an amendment providing for a mechanism to temporarily suspend sections of the bill dealing with capital gains and the IRA's in any fiscal year after the year 2002 if two things occur:

One, the Congressional Budget Office reports that the revenues lost due to the bill have exceeded the budget agreement's restrictions on tax cuts, and, two, the Department of the Treasury reports there has been a deficit in the previous fiscal year.

My point is very simple. I would like us to have some safety mechanism in this piece of legislation that says, if where we are headed beyond the first 5 years results in additional Federal budget deficits, that then we could suspend temporarily a part of these tax changes so that we can get the budget back into balance.

I have proposed it the way I have proposed it because I do not want us to discover that we are having budget deficits in the outyears simply because we are spending more money. That is not my purpose. But I do want to be in a circumstance here or have the Senate be in a situation that if the amount of tax cuts exceed the revenues that we had an agreement for in this piece of legislation, and if the Treasury Department reports that we had a deficit the previous year, that four sections of this tax cut would be temporarily suspended in order to get the budget back in balance.

That will be one of my recommendations. I do that simply because I want us to be certain beyond the first 5 years that we maintain the fiscal discipline that I think is commendable and I think is necessary.

We have, I think, achieved some things together in this Congress with a budget agreement, one which I voted for. I do not want to blow that apart in the sixth, seventh or eighth years out believing then, well, we balanced the budget for 5 years and then all of a sudden the budget is out of balance and in a deficit condition once again.

So I send this motion to refer to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report the motion to refer.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] moves to refer the bill, S. 949, to the Committee on the Budget, with instructions to report the bill back to the Senate within 3 calendar days of session with an amendment providing for a mechanism to sunset temporarily Sections 301, 302, 304 and 311 of the bill in any fiscal year after fiscal year 2002, if (1) the Congressional Budget Office reports that the revenues lost due to the bill have exceeded the budget agreement's restrictions on tax cuts and (2) the Department of the Treasury reports that there has been a deficit in the previous fiscal year.

Mr. DORGAN. Next, Madam President and the chairman of the committee, I intend to offer three amendments that are relatively small, targeted amendments that deal with the issue of disasters, natural disasters. Most of us recognize that we have spent a lot of time talking about disaster relief and issues affecting people dealing with flood disasters, earthquake disasters, tornadoes and fires and so on.

We had a circumstance in our region of the country where the Red River had a massive flood, a 500-year flood. We had 90 percent of a community of 50,000 people who were displaced out of their homes, many hundreds of those homes—nearly 1,000 homes—have been totally and permanently destroyed.

In many of those cases, all of their records were destroyed as well. People left with a half hour's notice and only the clothes they were wearing and lost everything. The Internal Revenue Service knowing that this happened the first week or so of April, second week of April, they said, "We will allow an extension to file income tax returns." It is pretty clear people fleeing a flood and who have lost everything, including all of their records, will not be able to file tax returns on April 15.

So the Internal Revenue Service said they would extend the tax filing deadline. I appreciate that. And it made a lot of sense because hundreds of those people, thousands of those people could not have complied, people in South Dakota, Minnesota, and North Dakota.

The IRS said, "We will consider a tax return timely filed if it's filed by the end of May." Then as this flood continued, they moved it to August, and that is where it is.

The IRS said to those victims of that disaster, "If you file by that date, there will be no penalty because we have moved the filing date," recognizing you could not possibly comply. But then the IRS said, "But you are going to have to pay interest because we don't have the authority to waive the interest." The disaster victims have asked the question, "Well, if it is considered timely filed, why are we being charged interest?" And the Internal Revenue Service said, "Well, you're being charged interest because we don't have the capability of waiving it."

The Treasury Secretary said he is sympathetic to my amendment, he will support it. I have talked to the majority on this, and I hope this will be one that—it will have an almost insignificant revenue consequence, but just makes sense. It gives the IRS the authority clearly to do what it wants to do and should do but does not now have the authority to do.

Madam President, I ask unanimous consent to set aside the motion to refer.

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

AMENDMENT NO. 515

(Purpose: To authorize the Secretary of the Treasury to abate the accrual of interest on income tax underpayments by taxpayers located in Presidentially declared disaster areas if the Secretary extends the time for filing returns and payment of tax (and waives any penalties relating to the failure to so file or so pay) for such taxpayers)

Mr. DORGAN. I offer the amendment and send it to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 515.

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

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

The amendment is as follows:

On page 211, between lines 5 and 6, insert the following:

SECTION 724. ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.

(a) IN GENERAL.—Section 6404 (relating to abatements) is amended by adding at the end the following:

"(h) ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.—

"(1) IN GENERAL.—If the Secretary extends for any period the time for filing income tax returns under section 6081 and the time for paying income tax with respect to such returns under section 6161 (and waives any penalties relating to the failure to so file or so pay) for any taxpayer located in a Presidentially declared disaster area, the Secretary shall abate for such period the assessment of any interest prescribed under section 6601 on such income tax.

"(2) PRESIDENTIALLY DECLARED DISASTER AREA.—For purposes of paragraph (1), the term 'Presidentially declared disaster area' means, with respect to any taxpayer, any area which the President has determined warrants assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disasters declared after December 31, 1996.

Mr. DORGAN. Madam President, I will be brief on the next two amendments. They relate to the same issues. As I indicated, the first dealt with the waiver of interest, which I hope we can do. It will have almost insignificant consequence, but will be significant to the disaster's victims.

The others, I have been visiting with the staff of the majority and the minority and other Members.

One deals with the question of the use of IRAs by victims of the disaster who now find themselves with a need to invest in their home to repair it, but they do not have any money except that which is in an IRA, or the need to invest in a business that has been destroyed, and they have no resources except that which is in an IRA. I hope with the chairman that we can find a way to provide that opportunity. I am happy to provide a reasonable limit on it.

I offer the amendment and hope we can visit about it in the ensuing hours prior to this bill's conclusion.

Let me offer that amendment.

AMENDMENT NO. 516

(Purpose: To provide tax relief for taxpayers located in Presidentially declared disaster areas, and for other purposes)

Mr. DORGAN. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the previous amendment will be set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 516.

Mr. DORGAN. 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 211, between lines 5 and 6, insert the following:

SEC. 724. DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS MAY BE USED WITHOUT PENALTY TO REPLACE OR REPAIR PROPERTY DAMAGED IN PRESIDENTIALLY DECLARED DISASTER AREAS.

(a) IN GENERAL.—Section 72(t)(2) (relating to exceptions to 10-percent additional tax on early distributions), as amended by sections 203 and 303, is amended by adding at the end the following new subparagraph:

"(G) DISTRIBUTIONS FOR DISASTER-RELATED EXPENSES.—Distributions from an individual retirement plan which are qualified disaster-related distributions.".

(b) QUALIFIED DISASTER-RELATED DISTRIBUTIONS.—Section 72(t), as amended by sections 203 and 303, is amended by adding at the end the following new paragraph:

"(9) QUALIFIED DISASTER-RELATED DISTRIBUTIONS.—For purposes of paragraph (2)(E)—

"(A) IN GENERAL.—The term 'qualified disaster-related distribution' means any payment or distribution received by an individual to the extent that the payment or distribution is used by such individual within 60 days of the payment or distribution to pay for the repair or replacement of tangible property which is disaster-damaged property. Such term shall only include any payment or distribution which is made during the 2-year period beginning on the date of the determination referred to in subparagraph (C).

"(B) DISASTER-DAMAGED PROPERTY.—The term 'disaster-damaged property' means property—

"(i) which was located in a disaster area on the date of the determination referred to in subparagraph (C), and

"(ii) which was destroyed or substantially damaged as a result of the disaster occurring in such area.

"(C) DISASTER AREA.—The term 'disaster area' means an area determined by the President to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1996, with respect to disasters occurring after such date.

SEC. 725. ELIMINATION OF 10 PERCENT FLOOR FOR DISASTER LOSSES.

(a) GENERAL RULE.—Section 165(h)(2)(A) (relating to net casualty loss allowed only to the extent it exceeds 10 percent of adjusted gross income) is amended by striking clauses (i) and (ii) and inserting the following new clauses:

"(i) the amount of the personal casualty gains for the taxable year,

"(ii) the amount of the federally declared disaster losses for the taxable year (or, if lesser, the net casualty loss), plus

"(iii) the portion of the net casualty loss which is not deductible under clause (ii) but only to the extent such portion exceeds 10 percent of the adjusted gross income of the individual.

For purposes of the preceding sentence, the term 'net casualty loss' means the excess of personal casualty losses for the taxable year over personal casualty gains.".

(b) FEDERALLY DECLARED DISASTER LOSS DEFINED.—Section 165(h)(3) (relating to treatment of casualty gains and losses) is amended by adding at the end the following new subparagraph:

"(C) FEDERALLY DECLARED DISASTER LOSS.—The term 'federally declared disaster loss' means any personal casualty loss attributable to a disaster occurring in an area subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.".

(c) CONFORMING AMENDMENT.—The heading for section 165(h)(2) is amended by striking "NET CASUALTY LOSS" and inserting "NET NONDISASTER CASUALTY LOSS".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to losses attributable to disasters occurring after December 31, 1996, including for purposes of determining the portion of such losses allowable in taxable years ending before such date pursuant to an election under section 165(i) of the Internal Revenue Code of 1986.

Strike section 751 of the bill.

On page 239, strike lines 18 and 19.

On page 239, lines 20, strike "(5)" and insert "(4)".

On page 240, line 1, strike "(6)" and insert "(5)".

Mr. DORGAN. Madam President, let me ask unanimous consent that amendment No. 516 be set aside.

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

AMENDMENT NO. 517

(Purpose: To impose a lifetime cap of $1,000,000 on capital gains reduction)

Mr. DORGAN. I offer one additional amendment this evening to be sent to the desk. Let me describe the amendment before I send it to the desk. It is an amendment that I wrote years ago, and I have offered it previously but feel that I want to offer it again on the issue of capital gains. I have long felt when we provide capital gains differential treatment that we should provide a lifetime limit on the amount of capital gains one is able to take at a preferred tax rate.

I have proposed in the past, and will propose with this amendment, a $1 million lifetime limit on capital gains tax treatment per taxpayer. I will describe later, and we will have an opportunity tomorrow to discuss some of these issues, but I really feel that the Congress should address this with respect to capital gains.

Let me make one additional point. There are some—and we can have a philosophical discussion about the tax situation—some that say, let us exempt income from investments which tend to favor those who invest. Why not say, let us exempt income from work and favor those who work, or maybe a balance between those who work and those who invest. But I have great difficulty believing that somehow investment has more merit than work.

Let's index investment. Let's index the income from work. I want to have a discussion in the context of capital gains as to why do we always in Congress, when we talk about giving some break or cuts, why do we always talk about taxing work and exempting investment? It is not that I am opposing trying to provide encouragement to investment, but why not provide similar encouragement to work?

I want to have that discussion on the issue of capital gains, and 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 North Dakota [Mr. DORGAN] proposes an amendment numbered 517.

Mr. DORGAN. Madam 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 96, strike lines 11 through 16, and insert:

"(3) ADJUSTED NET CAPITAL GAIN.—For purposes of this subsection—

"(A) In general.—The term 'adjusted net capital gain' means net capital gain determined without regard to—

"(A) IN GENERAL.—The term 'adjusted net capital gain' means net capital gain determined without regard to—

"(i) collectibles gain, and

"(ii) unrecaptured section 1250 gain.

"(B) $1,000,000 LIFETIME LIMITATION.—

"(i) IN GENERAL.—The adjusted net capital gain for any taxable year shall not exceed $1,000,000, reduced by the aggregate adjusted net capital gain for all prior taxable years.

"(ii) SPECIAL RULE FOR JOINT RETURNS.—The amount of the adjusted net 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 clause (i) for any succeeding taxable year.

"(C) CAPITAL GAINS RATE REDUCTION NOT TO APPLY TO CERTAIN TAXPAYERS.—The adjusted net capital gain for any taxable year in the case of any of the following taxpayers shall be zero:

"(i) 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.

"(ii) A married individual (within the meaning of section 7703) filing a separate return for the taxable year.

"(iii) An estate or trust.

Mr. DORGAN. A final comment. I wanted to offer these amendments so we could begin discussing them. I hope a couple of them might be accepted and a couple of them we can have votes on, especially the issue of triggering the tax cuts beyond the first 5 years to make certain we are not once again experiencing a Federal deficit in the long term. I am very interested—and I will be here to talk tomorrow—about other issues with respect to an alternative that I think has great merit.

Let me leave, as I began, to compliment the Senator from Delaware. There are a number of provisions in his piece of legislation I support and think have great merit. I hope some of the amendments that I offer and others offer that will improve the bill might be accepted, as well. If we can get the best of what both sides have to offer in this debate, the Congress will pass a tax bill that is worthy of consideration by the American people.

Madam President, I yield the floor.

AMENDMENT NO. 518

(Purpose: To repeal the depletion allowance available to hardrock mining companies already enjoying substantial subsidies due to the largesse associated with the 1872 mining law)

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. GREGG, and Mr. ROBB, proposes an amendment numbered 518.

Mr. BUMPERS. Madam President, I ask unanimous consent the reading of the amendment be dispensed.

The amendment is as follows:

At the appropriate place in the bill add the following new section:

SEC. . REPEAL OF DEPLETION ALLOWANCE FOR CERTAIN HARDROCK MINES.

(a) IN GENERAL.—The first sentence of section 611(a) of the Internal Revenue Code of 1986, 26 U.S.C. 611(a), is amended by inserting immediately after "mines" the following: "(except for hardrock mines located on land subject to the general mining laws or on land patented under the general mining laws unless such patented land was acquired (subsequent to the date the patent was issued), pursuant to an arms-length transaction prior to June 25, 1997)".

(b) DEFINITIONS.—Section 611 of the Internal Revenue Code of 1986 is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

(c) DEFINITIONS.—For purposes of subsection (a), 'general mining laws' means those Acts which comprise chapters 2, 12A, and 16, and sections 161 and 162 of title 30 of the United States Code."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

Mr. BUMPERS. Madam President, this is the 9th consecutive year that I have tried my very best to do justice to the taxpayers of the United States. I have heard an awful lot of talk in the last 60 days by people on both sides of the aisle about the $135 billion in tax cuts for those long-suffering taxpayers. I do not intend to debate the merits of the tax cuts tonight.

What I want to debate is the cynicism, the contradiction, the hypocrisy of talking about doing justice to the taxpayers on one hand by giving them a massive tax cut, and at the same time allow the biggest mining companies in the world to take billions of dollars worth of gold off land that belongs to the taxpayers of the United States and not pay one red cent for the privilege and then turn around and give these same mining companies an enormous tax break which they never did anything to deserve.

In 1872, Ulysses Grant signed the famous mining law of 1872 that encouraged people to go West and stake 20-acre claims. The 1872 mining law is still firmly intact. There are now over 330,000 claims that have been legitimately filed that belong to people who went out and simply drove 4 stakes in the ground every 20 acres and then went down to the courthouse and filed their claim. In addition, there are approximately 650 applications that have

been filed with the Bureau of Land Management for patents on some of those claims which would permit the applicants to buy the land for $2.50 or $5 an acre.

The people in the Senate do not pay much attention to this issue. They apparently pay little attention to the people watching C-SPAN because they are the ones who are getting the shaft.

Madam President, can you imagine this scenario. Newmont Mining Co., one of the biggest mining companies in the world, has a gold mine in Nevada. They pay the owners of the land on which that gold mine is situated an 18 percent gross royalty for the gold they take off that land. However, when they mine on public, taxpayer-owned land, they do not pay one red cent to the taxpayers of this country.

And you wonder why the people of this country are cynical. You wonder why the words "corporate welfare" were used so generously around here when we were looking for offsets for this massive tax cut, and this bill comes back to us from the Finance Committee with not a word about corporate welfare.

Do you know what else these mining companies do? They find somebody that has a bunch of claims that they think have some potential, and they buy the claims and then they mine it. Then they go to the Bureau of Land Management and say, "We have commercial gold or silver on this land and we want to buy it, and we will give you the princely sum of either $2.50 an acre or $5 an acre."

Do you know what Bruce Babbitt, the Secretary of Interior, has to do? He has to, by law, give them a deed to that land. Here is what has happened just in the past several years.

Barrick Gold Co. paid the U.S. taxpayers $9,000. Do you know what they got for that? They got almost 2,000 acres in Nevada with 11 billion dollars worth of gold on it. It belongs to the taxpayers of the United States. Do you know what the taxpayers are going to get for that $11 billion? Zip, zero, nothing. No royalty, no severance tax, no reclamation fee, and then they take a 15 percent depletion allowance on the gold they take out. We not only give it to them for $2.50 an acre or $5 an acre, we give them a depletion allowance for mining what they never paid for.

In 1995, Faxe Kalk, a Danish company, bought land in Idaho containing 1 billion dollars' worth of travertine. Do you know what they paid the taxpayers of the United States for this land containing the $1 billion in minerals? They paid $275.

There is an application pending at the Bureau of Land Management right now by the Stillwater Mining Co. for about 2,000 acres of Forest Service land in Montana. Stillwater will pay a maximum of $10,000 for that land. What do you think lies under that 2,000 acres of land? This is their figure, not mine: 38 billion dollars worth of palladium and platinum—$38 billion. Do you know who that belongs to? It belongs to the taxpayers of the United States. Do you know what the taxpayers of the United States are going to get in exchange for their $38 billion? You guessed it—the shaft. Nothing, not a penny. And people stand up and defend this thing as though it is some kind of a righteous cause.

These mining companies do not mind paying private property owners a royalty. They pay the States a royalty when they mine on State lands. They also pay the states a severance tax. It is only when the land belongs to the taxpayers of the United States that they object.

When you hear people in the coffee shops in your hometown talk about Government being sold off to the highest bidder, you cannot find a better case of it. The Halls of Congress and the Senate office buildings have been so full of lobbyists since I announced I was going to try to do away with the depletion allowance for companies mining on public land, you could not stir them with a stick. I can hardly get down the hall from my office because the Finance Committee office is between my office and the elevator.

So what I am saying, Madam President, let's at least have the courage to tell the taxpayers of this country that we are not going to give the mining companies, after we give them lands for $5 an acre, a 15 percent depletion allowance to mine minerals they never paid for.

When the oil companies buy a lease in the ocean, when the coal companies buy a lease on lands in the West, when the natural gas companies explore for gas on Federal lands, any time they find it, they pay a royalty for the interest in the minerals. They take a depletion allowance and they are entitled to a depletion allowance because, by definition, if you are depleting a capital asset, that is a legitimate thing to do when you paid for it in the first place. The oil and gas companies deplete oil and gas, and they have a right to do it. They paid a handsome price for it, and they are depleting an asset they paid for. These people paid nothing.

What have the taxpayers gotten out of this besides not 1 red cent in royalties? Well, for openers, they have gotten 557,000 abandoned mine sites, 57 of which are on the Superfund list. The Mineral Policy Center says that the estimated cost of cleaning up the mess that these mining companies have left us is between $31 billion and $72 billion.

I hate to be repetitive, but just to emphasize the point, let me go through it again. The mining companies give the taxpayers $5 an acre for gold. They take billions of dollars worth of gold off the land. They pay the taxpayers no royalty at all, they get a 15 percent depletion allowance; and then they leave an unmitigated environmental disaster, which is going to cost the taxpayers of this Nation between $31 billion and $72 billion to clean up.

Madam President, I have announced that I would not seek reelection, and in deliberating on that decision, I got to thinking about debates, what would be debated, what would be said, who would say it, and how would you respond. And I thought, how would you respond to an accusation that you voted for allowing the gold and silver and palladium and platinum mining companies to continue raping and pillaging the taxpayers of this country—all the time you are talking about a big tax cut for the taxpayers because they deserve it? And how are you going to pay for the tax cut? You are going to pay for the lion's share of it by cutting Medicare by $115 billion. You can put any face on it you want. I didn't vote for it. I have no intention of voting for it. Take $115 billion off Medicare and that, in turn, will come off of services for the elderly, part of the most vulnerable in our society, and then you ask your opponent, did you vote for that? Yes, I voted for that. Well, this $115 billion that you cut in Medicare, what did you do with it? We gave it away in tax cuts to the wealthiest people in America. You didn't put it on the deficit? No, we didn't put it on the deficit. You are going to balance the budget by cutting taxes? Isn't that the same old line you gave us back in 1981 that gave us a $5.3 trillion debt? Then what if somebody said, how about those mining companies? I have heard Senator BUMPERS, and I have read in the paper some of the things he said—for 9 years—about how the mining companies take billions of dollars worth of gold off of what is or was Federal lands, and they pay nothing for it, isn't that true? It is true. Nobody will deny it. And they don't pay 1 red cent. It gives corporate welfare a bad name.

The Western Senators, which have gold mines in their States on Federal lands, ask what if you bought a mining claim from some nester that staked out 500 acres, and the mining companies pay him handsomely for it, aren't they entitled to a depletion? Now, that is a neat way to avoid the issue. It also makes this point. When you buy 500-acre claims, for example, from some old nester that has been sitting on them for 10 years, they not only pay him a handsome price for it, they pay him a royalty, or what we call residual, an override. Now, they are willing to pay State's royalties, they are willing to pay private owner's royalties, and when they buy this land from some old nester that staked it 10 or 20 years ago, they are willing to pay him a royalty. It is only if the words "U.S." are on it anyplace that they don't want to pay a penny in royalty.

The questions I ask every year, and the questions that never get answered, are: Why are you willing to do this to the taxpayers? Why are you willing to pay a royalty of 18 percent on private lands in Nevada? Why are you willing to pay an average of 5 percent on all private lands in the United States? Why are you willing to pay the States a severance tax? Why are you willing to pay the States a royalty on their lands? But when it comes to lands that belong to the taxpayers of the United States, you are not willing to pay 1 red cent? Everybody falls silent when you pose those questions.

(Mr. BROWNBACK assumed the Chair.)

Mr. BUMPERS. Well, Mr. President, all but the freshman who just came in here this year have heard this debate before. A lot of people here have heard this debate in spades over the years. The problem is identical to what it was 9 years ago when I brought it up the first time. It is the most egregious, outrageous scam being perpetrated on the people of this country.

I have only got a year and a half left here, but I promise you, I am going to bring this up until the last day I am in the U.S. Senate. I am immensely offended by it. I cannot believe my colleagues have allowed it to continue. We have made one or two little modest gains—very modest gains. But the mining companies are fighting like saber-toothed tigers—they are standing in the hallways, they are in the committee rooms, they are all over the place—to protect the greatest sweetheart piece of corporate welfare in the history of mankind.

I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, I thank the Chair. I have listened to my good friend from Arkansas embellish one of his favorite subjects, and that, of course, is the American mining industry as we know it today.

I think it is fair to say that we have had, with the minority, a continuing, ongoing effort to try and bring about changes in our mining law—meaningful changes that are supported by the industry, meaningful changes that are supported by the minority. Unfortunately, we haven't been able to generate a resolve of many of these issues. But I think it is fair to say that the attack today proposed by my friend from Arkansas is not just an attack on the percentage depletion allowance, but, in reality, it is an attack on the American mining industry as we know it today.

Now, I don't know about my friend from Arkansas coming over here, but I didn't run into anybody in the Halls. I didn't run into any lobbyists. Nobody has talked to me. I venture to say that if you walk out now, you won't run into any either.

What we are looking at here is a matter of equity for an industry that is very important to our Nation, to our security interests, who must compete in a worldwide marketplace. We are either competitive or we are not.

For the information of my friend from Arkansas, the value, in 1995, of the combined contribution of the mineral industry to Arkansas was $744 million. So when he says "they don't pay one red cent," well, they contributed $744 million to the economy of Arkansas. In Alabama, it is $2 billion; in Arizona, it is $9 billion; in Texas, it is $7 billion; in New York, it is $8.3 billion. So when you say they don't pay anything, let's look at the working men and women in the mining industry today, and let's look a little more closely at reality.

What is proposed by my friend from Arkansas—and he is right, it is a punative proposal, as he has been working at it for 9 years and he is committed until the day he leaves to work on it. I admire that spirit. But he is not telling you the whole story. There was a proposal by the administration earlier this year to do away with percentage depletion for this industry. And the important thing, Mr. President—and I would like my friend from Arkansas to acknowledge the reality of it—it was rejected by both the Finance Committee in the Senate and the House Ways and Means Committee, and it should also be rejected by the full Senate.

When you strip away the rhetoric—and there is lots of it around here—on this matter, the issue boils down to one simple question: whether this body wants to go on record now in support of a nearly $700 million tax increase on the domestic mining industry. We talk about tax bills, we talk about tax breaks, we talk about stimulating how much more earnings the average family member can make and take home and save. But this proposal by my friend from Arkansas would tax America's mining industry an additional $700 million—and this is a domestic industry, mind you. Well, I think it is fair to say—and I think most of you would agree—that the Treasury will never see anywhere near $700 million from this proposal, because this latest assault on the industry will simply speed up one thing—the departure of the mining industry from our shores.

This is a worldwide market. You compete or you don't compete. Now, the continuing decline of this industry is reflected on the chart I have on my left. As my colleagues can see, jobs in this industry have been declining dramatically. Let's look at it. Metals make up the gold, silver, lead, and zinc production. The others are in iron ore and copper. In 1980, we had 98,000 jobs; today, we have 51,000 jobs. This is the gold, silver, lead, and zinc. That is not to assume we are not using as much gold, silver, lead, and zinc. We are. We are importing it from other countries. Why? Because we are not as competitive in the world marketplace.

Iron ore. In 1980, we had 21,000 workers. In 1995, we had 9,000. Where has the industry gone? It has gone to South America, South Africa. That is the reality we live under. Now, does my friend simply want to tax this industry another $700 million and drive it offshore? That is what is going to happen, make no mistake about it.

The copper industry. In 1980, 30,000 jobs; today, 15,000 jobs in the United States It isn't that we don't have the minerals. We are not competitive in an international marketplace. My friend from Arkansas simply ignores that reality. He never mentions it. It is always they are getting a free ride. He doesn't mention the jobs that are created in each State or the contribution associated with what that prosperity means to the families.

I think it is important to point these things out. These are accurate figures. This is the condition of the industry today. It competes worldwide. The jobs, Mr. President, that have disappeared are good-paying jobs. Make no mistake about it, these are not the MacDonalds minimum-wage jobs. The average yearly wage for miners is nearly $46,000, one of the highest wage levels of any segment of America's workers. That doesn't include the benefits provided for these workers.

What does the Senator from Arkansas propose to do with these workers if you tax the industry that much more? Are these people going to be retrained? They are going to be out of a job. They are going to be on welfare. You know where these jobs are going to go. They are going to go to Latin America, Canada, Indonesia, the Philippines, and Central Asia.

For example, gold mining exploration budgets have been dipping in the United States from a high of $149 million in 1992 to $120 million in 1996. But at the same time spending in Central and South America has increased more than five times—from $28 million in 1992 to $145 million last year. These are investments that could have and should have been made in the United States but for the hostile environment that this industry, which is a basic industry in the United States, faces at home.

If this tax increase is approved, we will merely hasten the further decline of this domestic industry, for instead of using capital to invest in exploration and development in new sites in the United States, the mining industry will be forced to abandon new projects at home. It will have to close marginally profitable mines with the loss of hundreds, if not thousands of permanent good-paying jobs.

Mr. President, the underlying predicate of this amendment, I think, is fatally flawed for it assumes that mining operations on Federal lands are cost-free. That is what my friend from Arkansas said. He said "not one red cent" did they pay for it. Nothing is further from the truth. Mining operations on Federal lands are not cost-free. It is a myth that patenting of land under the Mining Act of 1872 is somehow an easy event; that it simply is as easy perhaps as going out and writing a check to the Federal Government. That is not reality.

The reality is that the exploration process leading to the discovery of valuable mineral deposits can cost several hundreds of thousands of dollars per claim just for the drilling, the sampling, and the expense associated with proving up that claim.

I also note that in some cases mineral patent applications can contain as many as 500 claims per application, and the cost of processing a single claim can run $35,000 to $40,000 to $45,000. Multiply that by 400 or 500 claims. What do you have? You have $19 million in costs merely for processing claims. So when the Senator from Arkansas says they are not "paying one red cent," that is not reality.

Moreover, the time required to explore land and permit it before mining begins has increased dramatically, with a concomitant increase in the cost of mining. The average time for simply permitting new mines, as my friend from Arkansas is well aware, on Federal land has increased from 1 year to 3 to 5 years. And over the course of the last 4 years it has averaged close to 5 years.

Where is it going to be in another few years? At some point in time you are going to overload this. They are not going to be competitive in the domestic market. Where are they going? They will go where they have to go to survive, and that unfortunately is outside the United States.

Once the companies have passed all of the hurdles, a company then faces the daunting capital costs that are associated with bringing a modern mine on line.

This isn't like the chicken industry. This is an industry that is volatile relative to costs. Costs are not necessarily controllable in the mining industry because you run into different types of production exposure. Some of it is very, very deep. Some of it can have water in the mines. There are many, many unknowns associated with that. And the biggest risk is that you develop a mine and you have no assurance that your price is going to stay stable. The price fluctuates dramatically. But you have made a tremendous capital investment, and you are risking this capital relative to your belief that you can operate an efficient mine, an efficient operation, and control costs. But the unknowns are very, very high.

In my own State, we recently opened a mine called the Fort Knox Mine which began operations outside Fairbanks. The company invested nearly $375 million in capital before a single ounce of gold had been mined, or refined, on that project.

So they don't pay a red cent. They put up $375 million in advance on the supposition that they would be able to generate a reasonable return. Now the price of gold has dropped to a point where their margins are within a couple of dollars. That is the reality associated with that kind of a business.

I think my colleagues will agree that there is no free ride when it comes to the cost of exploration, acquisition, development, and processing in the industry—whether on Federal or private land. Yet, the amendment before us assumes little or no costs to the industry when mining on Federal land.

Mr. President, the rationale for the percentage depletion allowance is it recognizes the unique nature of resource depletion by providing a realistic and practical method for the creation of funding necessary to replace the diminished resource.

Moreover, percentage depletion reflects reality. This is a reality unlike in the chicken business. It is a reality that when the mines are exhausted, the companies must replace the depleted deposits of mineral resources, which are more difficult and in many cases more expensive to develop. These new deposits, because of lower grade ores, could create more difficulty in mining and development. They could be more expensive to operate.

So where do you go after you deplete your mine and when the economics are that you can't generate a recovery? You go find a new one to stay in business, and hopefully it will be of the quality of the last one. But you have no guarantee.

Hence, the justification for the percentage depletion allowance, as it responds to the unique nature of mineral deposits, provides for realistic and practical methods of reflecting the decreasing value of a mine as the mine is depleted. That is what it is all about. It helps companies maintain the capital necessary to make future investments for replacement of mineral resources.

I would also note that minerals are commodities whose prices are set, as I said, by the world marketplace. With an increase in mining costs with the repeal of the percentage depletion allowance, what are you going to do? You can't pass it on to the purchasers in the form of higher selling prices. You either absorb it and take a loss and ultimately if your losses are too high, you go out of business.

Mr. President, I would also point out that mining companies commonly package mining rights from a variety of sources into a single operation. For example, a large open-pit mining operation may include private property acquired through homestead laws, patent and mining claims, unpatented claims, States lands, and so forth.

The repeal of percentage depletion—as proposed by my friend from Arkansas—from those mining rights which originate with the mining law of 1872 would require a complex system, so complex that we would have to track every single shovel of ore on the mining site. In other words, some of it would be from lands that originated through private property, homestead laws, unpatented claims, State lands. How do you sort that out? What will likely be the result is that the depletion allowance would apply to a shovel of ore from one location but not a shovel of ore from an identical ore body 10 feet away.

That is simply absurd. But that is the solution that is suggested in this amendment.

Mr. President, I think there is no doubt that percentage depletion for minerals in mines on Federal lands is clearly appropriate tax policy. But I would suggest to all of my colleagues that this amendment is not about depletion on lands obtained under the Mining Act of 1872. As I indicated in my opening statement, this amendment is about the act itself. This is really just another attempt to gain leverage on the industry by attacking the depletion allowance.

Remember, Mr. President, by adopting the proposal in the amendment of the Senator from Arkansas, we would be going on record as supporting nearly a $700 million tax increase on America's domestic mining industry.

I can categorically state, Mr. President, that the U.S. mining industry agrees, they agree with the Senator from Arkansas, that the mining law of 1872 is substantially due for an overhaul. And we have passed reforms, ultimately to see them vetoed by the President. But I continue to work to see that this law is reformed. I continue to work with my friend from Arkansas and my colleagues on the other side to accomplish such a result, and we have been doing it for the last several years. The industry has supported the concept of a 5-percent net proceeds royalty, a fair market value for land—a fair market value for land—a permanent maintenance fee, and the earmarking of revenues generated from mineral production on Federal lands to create and fund abandoned mines and cleanup programs.

These are the things that are mentioned by my friend from Arkansas. He is concerned about abandoned claims and the cleanup. We provide for that in our proposed legislation. The Senator from Arkansas makes quite a point of the wide variance in royalties. What he doesn't point out is that the royalty agreements on private lands are just that. They are agreements. Those

agreements are made between two parties. The determination of what the costs are to be allocated out is something that the Senator from Arkansas doesn't look into. He just simply says, "Well, there is a 10-percent royalty here. There is an 11-percent royalty here. And the 5-percent royalty is not applicable." You have to go into what the royalty consists of. A 5-percent net proceeds royalty is fair. It is one that I support. A number of my colleagues basically support substantial changes in the 1872 mining law which we are attempting to address and hope to have before this body yet this year.

There are a couple of other interesting things, Mr. President. The administration has never sought to develop compromise legislation that reforms the 1872 law while offering the U.S. mining industry the economic ability to develop Federal mineral assets. That is a fact. This amendment, as with the administration's identical budget proposal, is clearly designed to bring the industry to its knees by putting a $700 million tax on the industry. Remember, as we reflect on the merits, that this matter has been studied and gone into in great detail by both the House and the Senate—the Senate Finance Committee and the House Ways and Means Committee. Both have said, no, this increased tax on the mining industry of $700 million is not justifiable.

So it is acknowledged we want to overhaul the 1872 mining law, but that is not what we are debating today.

What we are debating today in this amendment is an amendment that would simply kill the domestic mining industry in this country, make no mistake about it. As you look at the merits of an adequate royalty, it has to be based on consideration of comparisons that are real. Just what is the negotiated in and out of a higher royalty figure does not necessarily represent the return to the Government agency. This is modeled exactly after the royalty program that is currently operating in one of the most prosperous States for mining, and that is the State of Nevada.

My colleagues from Nevada I see are on the floor. I am sure that they will point that out.

So, in conclusion, let us recognize where we are on this. This is a $700 million tax proposal on our mining industry, our domestic industry.

One final point I would like to bring up is the matter of germaneness. This amendment is not germane. This amendment does not belong on this bill. At the appropriate time a point of order will be made. I urge my colleagues not to support a waiver of the point of order.

Mr. President, I yield the floor.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Nevada?

Mr. BRYAN. I say to the distinguished chairman of the Finance Committee, I would be happy to yield.

Mr. ROTH. Mr. President, I ask unanimous consent that the following list of staff members of the Joint Committee on Taxation be granted full floor access for the duration of S. 949 and that the list be printed in the RECORD.

It should be noted that these staff members will not be in the Chamber all at the same time but will rotate on and off as needed. There is a long list, and I will just submit it.

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

The list is as follows:

JOINT COMMITTEE ON TAXATION

Steven Arwin.
Tom Barthold.
Ben Hartley.
Harold Hirsch.
Ken Kies.
Kent Killelea.
Roberta Mann.
Laurie Mathews.
Alysa McDaniel.
Joe Mikrut.
John Navaratil.
Joe Nega.
Judy Owens.
Cecily Rock.
Bernard Schmitt.
Mary Schmitt.
Carolyn Smith.
Maxine Terry.
Mel Thomas.
Barry Wold.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I wonder if we might possibly get a time agreement here. I have talked to the chief opponents of my amendment. We have two Senators from Nevada here, and as I understand it there are a couple more besides Senator CRAIG of Idaho, and Senator MURKOWSKI has just finished his statement. I was just wondering—we have an hour each, but I was just wondering if we could, since this is in the evening if they could—I don't know of anybody else on my side. Senator GREGG is my chief cosponsor, and he is not going to be here this evening. I wonder if we could allow people to come in and speak as long as they want to tonight with the understanding we will have 20 minutes equally divided in the morning on the vote.

How does that sound?

Mr. MURKOWSKI. I think we have a number of Senators on our side we want to accommodate so why not let them speak as long as they want.

Mr. BUMPERS. Let them speak as long as they want with the understanding we will have a 20-minute time agreement equally divided tomorrow morning. I make that request.

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

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I have an amendment which I would like to offer this evening. I want to accommodate the Members who wish to speak on this issue, but I would like to have some understanding we would have an opportunity. I would need 15 or 20 minutes to offer my amendment this evening.

Mr. REID. Will the Senator yield?

Mr. DURBIN. I would be happy to yield.

Mr. REID. I think the Senator from Nevada would like probably 10 minutes?

Mr. BRYAN. At most, 10 minutes.

Mr. REID. Ten minutes.

Mr. CRAIG. No more than 10 minutes. That could conclude at least for this evening debate on this issue.

Mr. REID. We will visit during Senator BRYAN's statement and we may be able to cut that down a little bit and decide what procedure we are going to follow.

During the time Senator BRYAN is speaking, we will get together and try to accommodate the Senator from Illinois.

Mr. DURBIN. I thank the Senator.

Mr. MURKOWSKI. Mr. President, if I may, I ask unanimous consent to have printed in the RECORD an article from the Wall Street Journal called "Gold Mining Firms Act to Meet Price-Slump Challenge," which I think makes my point to the increasing of difficulty in meeting production costs with the declining price of minerals in the world marketplace today.

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

GOLD-MINING FIRMS ACT TO MEET PRICE-SLUMP CHALLENGE—THEY REDUCE COSTS, SCRATCH NEW MINES, WITH NO QUICK RELIEF IN SIGHT

(By Mark Heinzl and Aaron Lucchetti)

Gold companies are hunkering down, struggling to weather one of the most prolonged slumps in gold prices in years.

Mining companies are slashing costs and tearing up plans for new mines as the price of the precious metal continues to slide to three-year lows. Just since November the price of gold futures traded on the New York Mercantile Exchange's Comex division has plunged to $353.40 an ounce from above $380. The skidding price is enough to turn many high-cost mines into money-losing duds and spoils the economics of many planned projects.

"No question, if prices stay at this range, you will see fewer new gold mines," says Dennis Wheeler, chairman and chief executive officer of Coeur D'Alene Mines Corp. in Coeur D'Alene, Idaho.

Many analysts believe gold prices will linger at current levels or lower for several months. Gold prices have been pushed downward by slumping investment demand and the fear of increasing supplies from central banks. In Europe, central banks have been pressured to sell their gold reserves in an effort to meet debt requirements for European monetary union in 1999.

OUTLOOK FOR INVESTMENT

Unless the stock market experiences a hefty correction or inflation rears its head, gold investment demand probably will remain low as investors turn to financial investments with higher returns.

"It would take a very substantial market correction of about 15% to turn things around for gold," says William O'Neill, chief futures strategist for Merrill Lynch & Co. The price could bottom out at between $330 and $350 an ounce, before turning slightly upward, analysts say. The decline in the mineral's price has sent investors in gold-mining stocks running for cover. The Toronto Stock Exchange's gold-stock index has dropped 8.5% since mid-November. Last year investors were focused on gold companies with potential discoveries of new deposits; this year "we will see the market start to reward companies that have cash flow, production and reserve value," says Victor Flores, a gold-fund manager with United Services Advisers Inc., a San Antonio mutual fund company.

WRITE-DOWN ON PROJECT

An early casualty of gold's weakness is the Casa Berardi mine in Quebec. One of its owners, Toronto-based TVX Gold Inc., recently announced plans to shutter the mine, which eats up more than $350 an ounce in cash operating costs. The company said it will take an undetermined write-down on the project.

At five of the 22 largest U.S. mines, cash costs to produce gold are at or above $347.30 an ounce, the 39-month low that gold touched last week. At current prices "most mines are keeping their head above water, but the others will have to take cost-cutting measures, from stopping low-grade production to shutting the mine down," says John L. Dobra, an economist at the University of Nevada-Reno.

"CHALLENGING TIMES" AHEAD

About 10%–15% of the world's gold mining could be postponed if prices stay at current levels for a sustained period, says Jeffrey M. Christian, managing director of CPM Group, an industry consultant. World-wide, gold is produced at an average cash cost of $257 an ounce, says Gold Fields Mineral Services Ltd., a London industry research consultant. However, the total cost including capital expenditures comes to $315 an ounce, only about $40 an ounce lower than the current commodity price.

"Every company is looking very carefully" at cutting costs, says Leanne Baker, gold analyst for Salomon Brothers Inc. Companies are expected to reduce spending in exploration, administration and low-grade gold mining, which has a higher cost of production, analysts say.

Coeur D'Alene Mines has recently laid off 4% of its staff, halted all charitable donations and sold the company jet in an effort to make up lost profits. "We anticipate more challenging times ahead," says Mr. Wheeler, its chief executive.

Pegasus Gold Inc., a Spokane, Wash., gold concern that mines about 570,000 ounces a year, has also taken steps to survive in the new lower price range. The company recently announced it would reduce its exploration budget by about 20%, freeze senior-management salaries and delay construction on new gold projects in Montana and Chile until 1998.

"We looked at the current gold market and our cost structure, and we just needed to reduce spending," says John Pearson, director of investor relations for Pegasus. Mr. Pearson says the construction delay will shift about $100 million in capital spending to 1998, when the company will reassess the market. "Right now, the whole gold market is a negative environment; investor sentiment is weak," he says.

Lower gold prices have also hurt Echo Bay Mines Ltd., a Denver company struggling to increase its gold reserves and production. The company recently took a charge of $77 million after ripping up plans to develop its big Alaska gold project, Alaska-Juneau, and also canceled common-share dividend payments to conserve cash after a string of quarterly losses. Gold's recent nose-dive "made the economics that much more difficult" for the project, says Echo Bay's chief financial officer, Peter Cheesbrough.

While marginal projects and mines fall by the wayside, the price slide is also heating up the competition between mining companies for exceptional, higher-grade gold projects. Lower prices are expected to heighten the gold industry's consolidation. "We'll continue to see merger mania," predicts CPM Group's Mr. Christian.

Placer Dome Inc., a Vancouver, British Columbia, gold miner, is offering $4.5 billion in stock in a battle against Toronto-based Barrick Gold Corp. The price: Bre-X Minerals Ltd. of Calgary, Alberta, and its Indonesian Busang gold deposit. Bre-X says Busang could produce as much as four million ounces of gold a year at cash operating costs below $100 an ounce, compared with Placer Dome's cash costs of about $240 an ounce.

With Busang, Placer Dome could "rid themselves of their higher-cost, more risky mines," says Marc Cohen, a gold mining analyst at PaineWebber Inc. Indeed, if Placer Dome gets the Indonesian mine, the company says smaller projects in Mexico, Costa Rica or Australia could be shelved, especially if prices stay weak.

The deals have been getting bigger. Homestake Mining Co., San Francisco, and Newmount Mining Corp., Denver, both recently offered more than $2 billion in stock to acquire Santa Fe Pacific Gold Corp., which analysts say has a solid production and exploration profile.

Meanwhile, low gold prices are hurting most companies' results, especially relatively unhedged producers such as Echo Bay and Homestake, analysts say. Hedging involves using derivatives such as options and futures to lock in future revenue from gold.

Some companies were blind-sided by gold's fall. Montreal-based Cambior Inc. dropped its overall hedge position in 1996 to roughly one year's worth of production from the company's more traditional level of two years, says Henry Roy, Cambior's chief financial officer. Cambior's remaining hedge position leaves about 50% of the 500,000 ounces in annual output hedged at nearly $440 an ounce.

The PRESIDING OFFICER. The Senator from Nevada.

The Senator from Alaska is yielding to the Senator from Nevada such time as he might consume?

Mr. ROTH. Mr. President, I would be willing to informally agree that tomorrow there be 20 minutes equally divided prior to a vote.

Mr. REID. On this amendment.

Mr. ROTH. On this amendment.

Mr. BUMPERS. The distinguished floor manager is just suggesting to proceed as we were with the understanding there be 20 minutes equally divided tomorrow morning on this amendment.

That is essentially my unanimous consent request.

Mr. REID. Reserving the right to object, I would rather that Senator BRYAN proceed. That would give us an opportunity to speak and take about 10 minutes and then we would be happy to consider the unanimous consent request.

Mr. BUMPERS. Will the Senator repeat that?

Mr. REID. Senator BRYAN is going to speak for approximately 10 minutes. During that time, we have some procedural things we would like to discuss before we enter into a unanimous-consent agreement, because it may not be this amendment we will be debating. It may be a second degree.

Mr. BUMPERS. I understand you may offer a second-degree amendment this evening, and I certainly have no objection to that. I need to be gone from here for about an hour, and that is one of the reasons, I do not mind telling you, I am trying to get an agreement here so I will feel free to leave the floor for an hour. Perhaps we ought to just keep going here.

Mr. REID. Yes. I say to my friend from Arkansas, we will be real quick, and as soon as Senator BRYAN finishes we will work something out with the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. BRYAN. Will the distinguished Senator from Alaska yield the Senator from Nevada 10 minutes? I believe I can do it in a shorter time.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. MURKOWSKI. We are not keeping time, I would advise my friend from Nevada. So I have yielded the floor.

Mr. BRYAN. I thank the Senator.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. I thank the distinguished Senator from Alaska, and I very much appreciate his statement, which I think effectively deals with the amendment that our friend from Arkansas has offered.

Let me preface my comments while the distinguished Senator from Arkansas is in the Chamber that he noted that at the end of this Congress he will not be a candidate for reelection and this will represent his last Congress as a Member of this body. I must say that I regret the decision of the Senator from Arkansas. He has a distinguished record of public service in his own State as Governor and as a Member of this body. I have been pleased to share common cause with him on many, many issues which I believe in his public policy pronouncements are correct for the country, and he, indeed, has been a visionary in some of the things he wishes to do.

I do not quarrel for one moment with his sincerity. I know the depth of his conviction and I know them to be deeply entertained. I believe, however, that the Senator's zeal for this issue has obscured some of the facts that I think important for us to understand before we follow the course of action that he would suggest to us.

First, I want to point out the importance of this industry to my own State and to correct what is oftentimes, because of an oversimplified presentation, an impression that is given that the industry pays no taxes. We hear this continuously in the course of the debate on the mining law of 1872.

According to the National Mining Association, the industry, coal and hard rock, paid more than $600 million in Federal taxes in 1995. The General Accounting Office issued a report recently —this is not a publication that emanates from the mining industry but a General Accounting Office report—that indicates the average tax rate for the mining industry from 1987 to 1992 was 35 percent. Now, that is compared with 23 percent for the automobile industry, 19 percent for the chemical industry, and 33 percent for the transportation industry. In Nevada alone, the gold mining industry paid more than $141 million in State and local taxes in 1995, including $32.7 million in property taxes.

So let no one who is listening to this argument be misled that the industry pays no taxes, that it is given a free ride. That simply is not true. The industry pays a substantial amount of taxes at the Federal level, at the State level, and at the local level.

This issue really is not about the depletion allowance. This is really the stalking horse for an issue which we have been debating for some years, and that is the mining law of 1872. There is no disagreement among Members that the mining law of 1872 needs to be updated and modernized. The industry recognizes that and is in agreement, and my colleague from Arkansas recognizes that. And there is, indeed, fundamental agreement on the general areas that need to be updated.

Let me just refresh my colleagues' memories and identify the issues. The industry acknowledges that a royalty needs to be paid, and they are prepared to pay a 5 percent net proceeds royalty.

Now, there is a difference as to how much the industry should pay, but there is a recognition on behalf of the industry that a net proceeds royalty tax is appropriate and the industry is prepared to pay that.

Second, there is a recognition that the mining law of 1872 needs to be changed, and those who gain access pursuant to the law of 1872 need to pay a fair market value for the surface estate, in addition to the royalty which I have just indicated. That is a second area of agreement, the fair market value.

Third, there is a fundamental recognition, if entry is gained as it is under the mining law of 1872 and there is no longer utilization of the land for that purpose, of the possibility of revert, allowing the Secretary of the Interior to revoke the authority and to reenter the lands at his discretion.

There is a recognition of the need to pay a permanent maintenance fee for every claim that is held on Federal lands, and that fee needs to be made permanent; that an abandoned mines land fund should be established, and that as part of that a reclamation requirement be imposed as well.

VISIT TO THE SENATE BY MEMBERS OF THE COLOMBIA NATIONAL SENATE

Mr. BRYAN. It is my understanding, Mr. President, that we are honored by the presence of dignitaries. I will yield the floor and simply ask unanimous consent that after their introduction, I might be recognized again for purposes of continuing my comments. If the Senate is agreeable to that, I will yield the floor.

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

Who seeks recognition? The Senator from Florida.

Mr. GRAHAM. Mr. President, first, I thank my good friend and colleague from Nevada for his generosity in allowing us to take a moment at this time to introduce some distinguished guests. I might say that Senator BRYAN visited Colombia in March of this year and I think came away with some of the same positive feelings about the country and the people that I share.

We are honored today to have visitors, members of the Colombia National Senate: First, Senator Luis Londono, the President of the Colombia National Senate; Senator Amilkar Acosta, the President-elect; Senator Luis Velez, Senator Carlos Garcia, Senator German Vargas, and Senator Luis Perez.

I present these members of the Colombia National Senate to the Members of the United States Senate.

I thank the Chair.

The PRESIDING OFFICER. The Chair thanks the Senator from Florida. We welcome our guests. We are delighted to have them here in America.

RECESS

The PRESIDING OFFICER. Without objection, the Senate will stand in recess for 3 minutes in order to greet our guests.

Thereupon, the Senate, at 7:43 p.m., recessed until 7:49 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. BROWNBACK].

REVENUE RECONCILIATION ACT OF 1997

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

AMENDMENT NO. 518

Mr. BRYAN. Mr. President, as I have indicated, there is broad agreement within the industry that the mining law of 1872 needs to be updated. There is agreement in those areas that have been identified as: 5 percent net proceeds royalty; the fair market value of the surface estate; that a reverter provision be provided so that in the event the property is no longer used for mining purposes, the Secretary of the Interior would have the right to reclaim the land for public purposes; that there be a reclamation requirement and a permanent maintenance fee as part of that reclamation. So, there is a broad agreement that the mining law of 1872 needs to be reformed.

In the context of this debate, the issue is not whether the mining law of 1872 should remain inviolate, unchanged and sacrosanct, it is a question of how it needs to be updated to reflect the realities of the latter part of the 20th century. In that respect, the mining industry has been engaged in a dialog, now, for the better part of the last decade. There is obviously disagreement as to the specifics. I am hopeful, before my colleague, the distinguished senior Senator from Arkansas, retires from this body, that we can indeed have an agreement on these issues and produce a piece of legislation that all of us can embrace.

Let me speak specifically to the provisions that are contained in the proposal of the Senator from Arkansas. He would, in effect, repeal the percentage depletion allowance as it has existed in the code, in one form or another, since 1913. A percentage depletion allowance is not, as the senior Senator from Arkansas suggests, a giveaway to the mining industry. Rather, it is a longstanding tax policy that recognizes the unique nature of the mining industry.

Congress has long recognized that the principal capital asset of a mineral producer is its mineral reserves, the ore body itself. These mineral reserves are classified as wasting assets. As the minerals are produced or sold, the mineral deposit from which they are taken is gradually exhausted. Indeed, that is the history of every mining exploration in the history of my own State. These ore bodies are not inexhaustible; they last for a finite period of time, and the tax law reflects the reality of those circumstances.

That was first recognized in 1913, when the Congress allowed a portion of the value of these assets or reserves to be deducted from taxable income to allow producers to replace that ore body, their wasting asset. So depletion is similar to the depreciation allowance for the use of physical properties. It is an allowance that allows an investor in natural resources to recover his capital outlay in the mineral through a depletion allowance to producers to simply level the playing field between those classes of taxpayers. So, although it is unique, its underlying premise, its principle is the same: to

recognize that the asset is not inexhaustible, that it has a finite lifespan, and the Tax Code reflects that circumstance.

The capital investment necessary for modern mining is astronomical. It is not unusual to anticipate capital expenditures that will exceed $1 billion when opening a new mine. So the notion that somehow this land is turned over and immediately the next day the entrant is able to extract a large body of ore and make fantastic profits with no outlay, either in terms of ultimate tax liability or expenditures, simply is divorced from reality. Many explorations prove unsuccessful; that is, the quality of the reserves are simply unsustainable in terms of their economic feasibility. And that is a reality.

Many claims turn out to be unsuccessful because the mineral is not identified and cannot be located for purposes other than exploration. So the risks here in a mining operation are enormous. The Bumpers amendment would repeal the percentage depletion allowance for only those minerals obtained from land granted under the 1872 mining law. I think therein lies the true nature of the Bumpers amendment. This has little or nothing to do with tax reform. It seeks to punish the mining industry because Congress has been unable to reach an agreement on reforming the mining law of 1872. And that is patently unfair.

We recognize that reform needs to occur. The dialog continues. As I have indicated, I am hopeful that in this Congress it will be possible for us to achieve an agreement with respect to that reform.

Moreover, as the Senator from Alaska pointed out earlier, this industry is part, as other parts of our economy are, of a global competition. For us to remain competitive in America it will be very important for us not to impose a tax system that is viewed as so punitive as to discourage mineral exploration in its entirety.

I speak with some personal knowledge of the situation because, in my own State, we have gone through a series of mining booms. The origin of Nevada's history—born, as it was, during the Civil War—is a result of the first great mineral discovery in our State, the Comstock Lode, in 1859. That discovery, which brought thousands of people into what is now Nevada, laid the predicate for Nevada's admission to statehood. The mining industry was such an important part of the early economy in Nevada that the first attempt at statehood failed because of the way the State Constitution, as then proposed, contemplated the imposition of the tax on mining. So our heritage is linked to this industry, and the taxable implications are something that all of us in Nevada are very mindful of.

That mining boom lasted for a period of roughly 25 years. By the end of the century, the ore bodies having been depleted in the Comstock Lode, Nevada's mining industry was in a pronounced state of recession. It was resurrected ever so briefly during the period of World War I, and then declined at the end of that war. The modern period really began about 10 or 15 years ago, with the technology that makes it possible to recover microscopic particles of gold, so small, so minute that they are undetected by the human eye.

So this is an industry which has had a series of cyclical ups and downs. The suggestion of recklessly imposing this new tax structure is something that apprehends great fear for all of us in Nevada because of the sensitive nature of the industry and its transitory nature, based upon market circumstances as well as the ability to continue to locate new bodies of ore.

For Nevada and for America, it has been a good industry. It employs about 120,000 people in America. In my own State, it employs 15,000. And, as has been pointed out by the Senator from Alaska, if one looks at the pay scale of major industries in America, the average salary in mining is close to $46,000 a year, and in the context of the debate that we had earlier today about Medicare and Medicaid, and coverage of hospital and physician services, most mining companies provide a full range of insurance coverage for their employees and their dependents. So they have been good citizens with us in Nevada. And they have contributed immeasurably to the prosperity that we enjoy in Nevada.

In point of fact, Nevada produces more in the way of gold than any other State in the country. Indeed, if we were a separate country, we would rank internationally somewhere among fourth, fifth and sixth in terms of production worldwide. So this is a major industry with enormous significance to my State, that pays good money to good people. We are not going to allow that industry to be devastated by an improvident, zealous attack on the industry and the failure to properly consider what the impact of this would be.

Let me, by way of a concluding comment, indicate what kind of an administrative nightmare this provision would be. As I indicated a moment ago, this change would apply only with respect to those minerals that are recovered under public lands, under lands which were entered pursuant to the provision of the mining law of 1872. That suggests that a mining operation is finitely defined and that an operation that derives its origin from entry under the mining law of 1872 is a separate and distinct and discrete operation from that part of the operation in which the mining company may have acquired title to the property through private sale.

Indeed, if you look at the mining operations that currently exist in my own State, and if you look at the source of title or occupancy of those lands, you will find as many as five or six different derivative sources for the occupation and/or title or patent to those claims. So it would be an administrative nightmare in allocating this new system of taxation to a single operator on a single mine who is mining bodies of ore through different areas within a fairly confined area of a few of those acres. So it is totally impractical.

I hope my colleagues recognize that this is not the sort of thing we should do without giving due deliberation to the broader issue which will be discussed during this Congress and I hope will be resolved, and that is to deal with the update of the mining law of 1872. That is what this debate ought to be about, rather than a punitive approach which is taken in the proposed Bumpers amendment.

I hope, at the appropriate time, my colleagues will join us in rejecting this proposal and allow us to continue the debate with respect to reform during the course of this Congress.

I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Idaho.

Mr. REID. Will my friend from Idaho yield for a minute?

Mr. CRAIG. I yield.

Mr. REID. Senator BUMPERS is off the floor, but he asked if I would propound a unanimous consent request on his behalf. First of all, I suggest that the unanimous consent request will be that at the time debate is completed in the morning, a point of order will be raised against this amendment on the basis of germaneness.

Mr. CRAIG. Will the Senator from Nevada withhold for a moment? Staff has, I believe, comprised that unanimous consent request and will provide it to you.

Mr. REID. The one thing I ask, because he has been so patient here, is that the Senator from Illinois—he has been waiting here for several hours while we worked our situation out—would it be appropriate that he be allowed, as part of the unanimous consent request, to offer the next amendment?

Mr. CRAIG. We have to check with the floor managers.

Mr. President, while that is going on, let me reclaim my time and discuss the Bumpers amendment for a few moments.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I join the Senator from Alaska and the two Senators from Nevada in our commitment and belief that the 1872 mining law deserves to be reformed. These four Senators have worked for the last 4 to 5 years to bring responsible and sensitive reform to this old, but very important,

law, a law that has served our country well on public lands that allows an individual to go forth to explore, to discover and to develop the mineral wealth of our country.

It is also important to recognize that this is a public resource, and there needs to be an appropriate balancing act in the effective utilization of a public resource and a return to the taxpayer of the value of that resource.

Because the 1872 mining law was really intended at a very early time in our country's history to be a development law that allowed growth and development primarily in the public lands of Western States, I, a Western Senator, along with the Senator from Alaska and the two Senators from Nevada as Western Senators, saw a need, along with a good many others of our colleagues, to provide good reform to this old law to allow the mining industry to go forth, to assure there would be a right to discover, a right to develop, but to do all of that in the context of sound environmental policy and, for the first time, to propose a royalty on hard-rock mining; also, to recognize that there was a surface value that is no longer there and an absolute sense of a need to develop western lands. So, therefore, there ought to be a market value placed on the surface rights that one gained as they gained title through the patenting process which allowed that public resource to go to private utilization.

But for 4 years, this administration has literally refused us the right to do that. This Senate passed mining law reform. It was in the budget reconciliation 2 years ago, and the President vetoed it. So for the Senator from Arkansas to stand on the floor this evening and say there has been no meaningful mining law reform isn't quite true. There has been a very aggressive effort on the part of this Senator; the Senator from Alaska, the chairman of the Energy and Natural Resources Committee; the Senator from Louisiana, now retired, Senator Johnston, who was the chairman of that committee; and, of course, the Senators from Nevada who understand the importance of mining, as I do, because it is a critical part of their economic base and the resource development in their State.

The Senator from Arkansas has another vision of mining. It is called nomining. For some reason, he believes that this is a source of wealth to the Treasury of this country, and when he sees millions of dollars invested, somehow he immediately equates that as millions of dollars returned to the Treasury, when the fact is that while money can be returned to the Treasury, it takes an average of $400 million to develop an operating mine today, to make sure it is in compliance with the Clean Air Act and the Clean Water Act, to make sure it meets the NEPA requirements, to make sure it is operated in a sound environmental way, while returning a profit to the company and to the investors that put up the nearly $400 million for that development.

Unlike other kinds of resources, minerals are not sold in Little Rock at a Little Rock value or Boise, ID, at a Boise value. They are sold in Little Rock or in Boise based on a world value, a world market, because gold and silver and iron, zinc and lead, and all of those kinds of things that make up the fundamental base of the industrial society that we enjoy are traded in a world environment.

When that price slips, so it slips at the mine. A mine that one year can be very profitable, the next year can be very unprofitable and can lose money. That has been and is the history of mining in our country. You talk about striking it rich, that happens in mining, but I also know a lot of miners who struck it poor.

A mining company in our State just a year ago called me and said they wanted me to know that they were shutting down a major mining operation in one of the counties in the State of Idaho. Why? After they had invested millions of dollars, their exploration didn't pan out to be quite what they thought it ought to be. Their drilling didn't determine the projections of the ore body that existed. So they were shutting it down and walking away and writing off millions and millions of dollars of cost in the development of a mill and a plant and a site and all of those necessary tools to bring that mineral out of the ground to the smelter in a refined way.

I say nothing new on the floor of the Senate tonight. I only bring current the 200-plus-year history of the mining industry of our Nation.

But reform is necessary, and this Senator, along with the Senator from Alaska—the two Senators from Nevada have just authored a new mining law reform approach. We sat down with the Senator from Arkansas and his staff to try to see if we could not build a bipartisan compromise. That hasn't happened yet, and we want that to happen. We believe in the reform.

But what the amendment of the Senator from Arkansas proposes tonight is not constructive. It doesn't add to the overall effort to build strong mining law for this country that allows continued development in an environmentally sound way, to build the resource and the wealth base of our Nation and to assure a domestic supply of minerals and metals.

It does quite the opposite. It goes directly at mining industries in this country, and it could very well render them marginal and, in some instances, less than profitable. When that happens, the mining industry doesn't stay around. It very quickly closes its doors and the average job of $46,000 a year goes wanting, and that mining industry goes to Peru or to Chile or to Colombia or to Ecuador or to Mexico to build the wealth base of those countries and to deny us the $100 billion industry that we have here.

I don't think that makes good sense. I never have. And I can't understand the thinking of the Senator from Arkansas in that regard, other than he just appears to have it out for the mining industry.

In my State, it is an important industry. Nationwide, it is tens of thousands of very high-paying jobs, and there is no question that this industry contributes a great deal to our country and hundreds of millions of dollars to the economy on an annualized basis.

The mining industry already pays taxes. Somehow, because they are able to patent public resources and then develop them, the Senator from Arkansas suggests they pay nothing, they "get a free ride." That one example on the bottom line of the chart of the Senator from Arkansas is an Idaho-based operation. There may be a billion dollar's worth of reserves in the ground, but that operation isn't operating today. They are not functioning, and the reason they are not is that they are not current in the economy of the marketplace. They may have invested millions of dollars, and they may have paid the Federal Government through the process of the $2.50 an acre surface value in the patenting process, but they are not returning any money today, and their mine sits idle. That is not unusual. That is the way the mining industry works. That is the way it has always worked. My guess is it won't change.

The mining industry already pays an average in Federal taxes at 32 percent, according to the General Accounting Office. Because of the corporate alternative minimum tax, they currently pay a very high rate. But the Senator from Arkansas says, "Whoop, that's not good enough, stick them again 8 to 10 percent." So we get them up to 42 percent. Why do you want to pay 42 percent on your income flow if you can move across the border and pay less? That is exactly what has happened. The Senator from Alaska and the Senators from Nevada spoke very clearly about that in their past statements. The exodus out of this country of the mining industry and the jobs and the expertise and the engineering that flows with it is a tragedy to which we shouldn't contribute.

So I hope that Senators will recognize that we shouldn't be legislating more in relation to this tax bill that we have before us. This comes outside of the agreement. We have worked very hard, and, I must say, the chairman and the ranking minority member of the Finance Committee have done what I think is an excellent job in working to stay inside an agreement that the leadership of the Senate and the House and the President struck as it related to revenue and tax relief.

Tax relief ought to be creating jobs, it ought to be promoting economic development, it ought to be growing our economy instead of shrinking it, instead of destroying thousands of jobs that I believe this kind of legislation and the Bumpers amendment would accomplish.

I have before me a chart that talks about the combined direct and indirect contribution of the metals mining industry to the economy of the individual States of this Nation. I could go through that, but here is the bottom line, Mr. President.

The bottom line is $134,378,000,000 a year. Is that in the pocket of some mining executive? Absolutely not. It is in the work force of Caterpillar equipment in Illinois. It is spread across the country in the supplies and the direct and indirect services that provide for the mining industry. It is in the chemical industry of Delaware.

I am amazed, but I look down here and see that in Connecticut alone is $1,792,000,000—Connecticut—directly attributable to the mining industry of the country. I did not know there was a mine in Connecticut. Well, there probably is not, but there are major corporate headquarters and there are suppliers, and those suppliers create jobs.

Of course, when you have a broad-based industry like metals and mining, all States benefit. Literally every State in the Nation has nearly $100 million or more in value of directly associated or related jobs to the metal and the mineral industry of our country.

That is why we should not be stepping forward in some form to destroy it. We ought to be promoting it. Most importantly, the Senator from Arkansas ought to be working with the Senators from Nevada and from Idaho and from Alaska to get reform that we all want so that the mining industry of the country can know the ground on which it operates and the law to which it must comply. That is what we ought to be about.

So I hope that tomorrow when we vote on the Bumpers amendment, we can vote it down, recognizing that when we deal with reform in the mining industry, let us deal with it in a comprehensive way in the appropriate authorizing committee with the hearings that are necessary to make sure that what we do fits so that we do not wound an industry that has provided for us well and that continues to employ tens of thousands of people across our country and provide well over $100 billion annually to the wealth base of this country. That is the issue.

I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask through the Chair to the manager of the bill, is the unanimous-consent request now ready to be propounded?

Mr. ROTH. No. We are still waiting for clearance on the Democratic side.

Mr. REID. Mr. President, the chairman of the Energy and Water Committee entered into the RECORD this evening a news article that was printed earlier this year in the Wall Street Journal. The news article says a great deal about the debate that is taking place here tonight.

We can talk about all the jobs that mining produces—and there are over 100,000 of them in the United States alone—we can talk about all the direct and indirect income that it generates for States, but the most important thing that I think brings this in proper perspective is to look at what is happening to mining today.

"Gold-Mining Firms Act to Meet Price-Slump Challenge."

The price of gold has dropped precipitously. The price of gold is low. As indicated in this article, "[Mining Companies] Reduce Costs, Scratch New Mines, With No Quick Relief in Sight."

The article says, among other things:

> Mining companies are slashing costs and tearing up plans for new mines as the price of the precious metal continues to slide to three-year lows. . .[the prices] plunged to $353.40 an ounce . . . The skidding price is enough to turn many high-cost mines into money-losing duds and spoils the economics of many planned projects.

Dennis Wheeler, chairman and chief executive officer of Coeur D'Alene Mines, which is headquartered in Coeur D'Alene, ID, says, "No question, * * * you will see fewer new gold mines."

This is a quote from this article.

> Gold prices have been pushed downward by slumping investment demand and the fear of increasing supplies from central banks.

> At [least] five of the 22 largest U.S. mines, cash costs to produce gold are at or above $347.30 an ounce. . .

What this means, Mr. President, is that the cost of gold is not enough to meet the costs of producing the gold. That is why in Nevada you have seen companies laying off people. That is why you have seen mines going out of business. At this stage they have been the small operations, but the big ones are going to come unless something happens to raise the price of gold or to cut costs, or both.

> Coeur D'Alene Mines has recently laid off 4% of its staff, halted all charitable donations, and [as Mr. Wheeler said] . . . "We anticipate more challenging times ahead."

And that, Mr. President, is an understatement.

Pegasus Gold is a substantial company based in Spokane, WA. They have operations in the State of Nevada. They mine over half a million ounces of gold a year. But they have taken steps to survive in the new lower price range, or trying to survive.

> The company recently announced it would reduce its exploration budget by about 20%, freeze senior-management salaries and delay construction on new gold projects in Montana . . .

Echo Bay Mines, a Denver-based company has operations in the State of Nevada, among other places. Lower gold prices have also hurt Echo Bay, causing its gold reserves to go down.

> The company recently took a charge of $77 million after ripping up plans to develop its big Alaska gold project [in] Alaska-Juneau . . .

Now, I say, Mr. President, this is only a little example. So $77 million they spent before they turned a single spade of dirt.

A little operation outside the town of Searchlight, NV, where I was born, still maintain my residence—that operation took about $100 million before they could do any mining. It is a relatively small operation.

Echo Bay:

> . . . also canceled common-share dividend payments to conserve cash after a string of quarterly losses.

Many, many gold companies are suffering the same fate as the few of these that I have referred to out of this article.

Gold mining companies are having real difficulty. As has been indicated already on the floor, the General Accounting Office has indicated that gold companies now—the mining industry now—is paying about a 32 percent effective tax rate. Now, if this goes up, as indicated by my friend from Idaho, they will be out of business in a large scale.

This amendment, Mr. President, would create an administrative nightmare for the Department of the Interior. For example, the origin of the claims and lands currently being mined, they could not be tracked, or if they could it would be extremely difficult. Often these claims have been owned and conveyed at arm's-length transactions.

How do you go back and effectuate this depletion allowance that he wants to dispose of? Many properties are obtained through a variety of ways other than the 1872 mining law. Remember, they have been mining in the State of Nevada since the 1840's. Many claims were filed prior to the 1872 mining law.

Mining companies often put together their operation from private property acquired through laws, both State and Federal.

How would we keep track of ore on a property that has several different property origins? The depletion allowance would apply to a shovel of ore for one location but not to a shovel of ore identical to that just 10 feet away.

In principle, there is little difference between allowing mineral producers a depletion allowance and allowing a manufacturer to depreciate a plant and equipment.

In the process of manufacturing, the manufacture's equipment requires replacement.

Therefore, a depletion allowance for mineral producers a simply levels the playing field between these classes of taxpayers.

Again this amendment unfairly targets the western mining industry.

This amendment is an attempt to do mining law reform, and this is not the place or time for such an effort.

If this Congress wants to rewrite the current mining law then it should begin in the Energy and Natural Resources Committee, not on the Senate floor tonight.

The Bumpers amendment proposes to eliminate the percentage depletion for non-fuel minerals.

This amendment to eliminate Percentage Depletion is an ill-conceived and ill-advised attempt to circumvent congressional efforts to reform current mining law.

The U.S. mining industry has long agreed that the mining law is due for an overhaul.

Serious efforts to accomplish such a result have taken place over the past several years.

Legislation has reached the President's desk that would have, among other things, imposed significant royalties on minerals produced from new mines developed on Federal lands.

The administration has never sought to develop compromise legislation that reforms the mining law.

This amendment is simply another attempt to attack the industry on yet another front.

The capital investment necessary for modern mining is astronomical.

It is not unusual to anticipate capital expenditures well in excess of $1 billion when opening a new mine.

With the repeal of the investment tax credit, the extension of depreciable lives, and the imposition of the alternative minimum tax, the tax burden on the U.S. mining industry is significant and burdensome.

The most recent GAO report on the subject indicates that the mining industry is currently paying a 32 percent effective tax rate.

It is estimated by the State of Nevada that this proposal would result in the following: 2,300 jobs; $220 million in economic output; and $68 million loss in household earnings.

The PRESIDING OFFICER. The Senator's time and the opposition's time has expired.

Mr. REID. There is no time. There is no time.

The PRESIDING OFFICER. On a reconciliation bill there is an hour.

Mr. REID. Oh, all time is gone? That is fine.

Senator BUMPERS left anticipating that there would be a unanimous-consent request entered. I certainly want to do that before I leave today, if at all possible.

Mr. ROTH. Mr. President, I ask unanimous consent that at 9:30 a.m., on Thursday, there be an additional 20 minutes for debate equally divided between Senator MURKOWSKI and Senator BUMPERS, and immediately following that debate time, Senator MURKOWSKI be recognized to raise a point of order against the Bumpers amendment; and further, immediately following a motion to waive, the Senate proceed to a vote in relation to the Bumpers amendment; to be immediately followed by 20 minutes of debate equally divided in the usual form prior to a vote on or in relation to the Dorgan amendment No. 517; to be followed by 10 minutes of debate equally divided in the usual form on the Dorgan motion to refer, with Senator ROTH being recognized to raise a point of order against the Dorgan motion to refer; and, further, immediately following a motion to waive, the Senate proceed to a vote in relation to the Dorgan amendment.

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

PRIVILEGE OF THE FLOOR

Mr. DURBIN. I ask unanimous consent that Anne Marie Murphy of my staff be accorded floor privileges during the consideration of S. 949.

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

AMENDMENT NO. 519

[Purpose: To increase the deduction for health insurance costs of self-employed individuals, and to increase the excise tax on tobacco products]

Mr. DURBIN. Mr. President, I would like to present an amendment for floor consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The bill clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Mr. DORGAN, Mr. DASCHLE, and Mr. HARKIN, proposes an amendment numbered 519.

Mr. DURBIN. 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:

On page 267, between lines 15 and 16, insert the following:

SEC. 780. DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS INCREASED.

(a) IN GENERAL.—Section 162(l)(1) (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, the taxpayer's spouse, and dependents.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

On page 337, beginning with line 14, strike all through page 339, line 15, and insert the following:

(a) CIGARETTES.—Subsection (b) of section 5701 is amended—

(1) by striking "$12 per thousand ($10 per thousand on cigarettes removed during 1991 or 1992)" in paragraph (1) and inserting "$27.50 per thousand", and

(2) by striking "$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 or 1992)" in paragraph (2) and inserting "$57.75 per thousand".

(b) CIGARS.—Subsection (a) of section 5701 is amended—

(1) by striking "$1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 or 1992)" in paragraph (1) and inserting "$2.531 cents per thousand", and

(2) by striking "equal to" and all that follows in paragraph (2) and inserting "equal to 28.6875 percent of the price for which sold but not more than $67.50 per thousand."

(c) CIGARETTE PAPERS.—Subsection (c) of section 5701 is amended by striking "0.75 cent (0.625 cent on cigarette papers removed during 1991 and 1992)" and inserting "1.69 cents".

(d) CIGARETTE TUBES.—Subsection (d) of section 5701 is amended by striking "1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)" and inserting "3.38 cents".

(e) SMOKELESS TOBACCO.—Subsection (e) of section 5701 is amended—

(1) by striking "36 cents (30 cents on snuff removed during 1991 and 1992)" in paragraph (1) and inserting "$1.9933 cents", and

(2) by striking "12 cents (10 cents on chewing tobacco removed during 1991 or 1992)" in paragraph (2) and inserting "75.33 cents".

(f) PIPE TOBACCO.—Subsection (f) of section 5701 is amended by striking "67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)" and inserting "$1.5188 cents".

(g) IMPOSITION OF EXCISE TAX ON MANUFACTURE OR IMPORTATION OF ROLL-YOUR-OWN TOBACCO.—

(1) IN GENERAL.—Section 5701 (relating to rate of tax) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) ROLL-YOUR-OWN TOBACCO.—On roll-your-own tobacco, manufactured in or imported into the United States, there shall be imposed a tax of 81 cents per pound (and a proportionate tax at the like rate on all fractional parts of a pound)."

Mr. DURBIN. Mr. President, simply put, this amendment which I have offered asks that we move toward more equitable tax treatment for the self-employed with respect to the deductibility of their health insurance premiums within this budget process. I believe this issue enjoys wide support among my colleagues in the Senate.

I would like to draw my colleagues' attention to a letter which has been sent to the Senate Finance Committee signed by over half of the membership of this body. A total of 53 Senators have urged that there be movement in this legislation toward the equitable treatment for the self-employed with respect to the deductibility of health insurance premiums.

Today, I would like to reaffirm our commitment to helping the self-employed afford health insurance and receive parity with their corporate competitors who can already deduct 100 percent of their health insurance premiums by passing this amendment.

Let me say at the outset, the term "self-employed" is a term of art used in the Tax Code but for those who are following the progress of this debate, they may be interested in the people who fall into the category of the self-employed. Those would include, of course, entrepreneurs, small business people, family farmers and the like. It is the fastest growing segment of the American economy.

More and more people are starting businesses. More and more people aspire to own their own businesses. More and more women are getting involved in entrepreneurial endeavors. So this amendment addresses a problem which exists and one which can only become worse as more people get into self-employment categories and still do not enjoy the same positive tax treatment as corporations and their employees.

There are over 23 million self-employed in the United States today. Unfortunately, over 5 million of these people have no health insurance. The rate is higher for self-employed people than the rate for salaried and waged workers. On the average, salaried and waged workers have only 16.8 percent of their membership uninsured, as against 25 percent of the self-employed that are uninsured.

The simple fact of the matter is there is a 50 percent higher likelihood that a person is uninsured—without health insurance—if they are self-employed, as opposed to being a salaried employee. Not only are the self-employed less likely to have health insurance, but those that do pay on the average 30 percent more for their health insurance premiums. They do not have access to group health insurance. They pay some of the highest rates in the Nation.

For those who follow closely the National Federation of Independent Businesses, which as I understand it is the largest organization of small businesses in America, they might be interested to know that when their membership was surveyed nationwide last year and asked their No. 1 issue for Washington, it was not capital gains; their No. 1 issue was the cost of health insurance. When I traveled across Chicago last year and met many entrepreneurs and small business people, I asked them the challenges they face, and time again they said, it is such a great concern to us and to our families that once having left the protection of a group health insurance plan and having moved into self-employment, into small business, or in many cases to family farms, they found themselves unable to afford health insurance.

I can recall a telephone call to my congressional office, when I served in the House. A woman called when she heard of my interest in this issue and said, "I want to tell you my family story." It is one that is repeated many times on farms across America. She said, "I was at home as a farm wife raising our children, raising the family. Then I decided I had to go to work in town." She said to me, "Congressman"—I was a Congressman—"Congressman, the reason I work is because the salary I earn pays for two things: Day care for my children, which otherwise I would take care of at home, and the premiums for health insurance for our farm family." That story is repeated many times over, across the United States, where people are struggling to come up with the resources to be able to afford health insurance.

Currently, the self-employed in America may only take a tax deduction of 40 percent for the cost of health insurance premiums. However, corporations and their employees enjoy a full 100 percent deductibility. This is not fair.

I once asked some of the older Members of the House who had been around during many, many years of debate on tax bills why this disparity existed, why would we take one group of Americans working for businesses and give them full deductibility of health insurance, and say to self-employed people, you can only deduct 40 percent. I was certain there had to be some rationale behind this dichotomy. I spoke to Sam Gibbons, now retired Congressman from Florida, who served on the House Ways and Means Committee for many years. He said there is no good explanation for it. It came about sometime after World War II when corporations and unions asked for this advantage and it was given to them. The self-employed did not speak out. Health insurance was not a major issue, and as a consequence this dichotomy, this divergence in the deductibility of health insurance became enshrined in law.

Scheduled increases in current law for the deduction of the self-employed will slowly, slowly increase from the current level to 45 percent by 2002. We are talking about waiting 5 years for it to go up 5 percent more for deductibility, and then even by 2006, almost 10 years from now, under current law the deductibility for self-employment will only be 80 percent—never reaching 100 percent deductibility of a corporation or big business. That is a very long time for self-employed people to wait.

We should make progress on this issue on increasing deductibility this year within this budget package. Farmers and many other hard-working, self-employed individuals, including many women who recently started small businesses in record numbers, deserve help in this area, sooner rather than later.

You might take into consideration this fact: Of the 10 million uninsured children in America today, 1.3 million of them live in families where there is at least one parent who is self-employed. These children comprise approximately 13 percent of all uninsured children. So for these families, for the breadwinners who own the small businesses, for the family farmers and for their children, this is a very critical amendment.

Now, the obvious question to be asked of myself and others who come to the floor with changes in the Tax Code is this: How are you going to pay for it? How will you provide the resources to offset the cost of giving this new deduction to the self-employed? I will tell you, upfront, we raise the tobacco tax, the Federal tobacco tax.

The current cigarette tax is 24 cents per package. The current tax on smokeless tobacco is about 2.7 cents, for snuff; and 2.3 cents for a pouch of chewing tobacco. This bill increases the cigarette tax by 20 cents per pack to 44 cents. That is the bill that comes out of the Senate Finance Committee. It increases the tax on smokeless tobacco products by the same 83 percent. That will raise the tax to around 5 cents for snuff, 4.2 cents for chewing tobacco.

The amendment I offer to provide the deductibility, full deductibility for health premiums for the self-employed, is paid for by adding about 10 cents to the tax on cigarettes, about 10 cents, a tax—maybe a fraction higher that might be necessary to make certain that it meets this budgetary requirement. Ten cents, 10 pennies for a person buying a package of tobacco.

What will we buy as a Nation for these 10 pennies? We will buy protection for millions of Americans who today do not have it, health insurance that they can afford, giving them fair treatment under the Tax Code, saying to people who buy tobacco products you will pay a few pennies more for those products. We, as a Nation, will see great benefit coming to many families and many children across America.

We are waiting for a formal revenue estimate from the Joint Tax Committee. We have been in negotiation with them. We are told that the amount of the tax on a package of cigarettes may be slightly over 10 cents, but we are in this range of between 10 and 11 cents.

What happens when you raise the price of a package of cigarettes, as this bill does, by 20 cents already? Fewer children buy them. As you make tobacco products more expensive, kids stay away. Now, isn't that a good idea? Don't we all agree that to have 3,000 children start smoking for the first time every day in the United States is a bad idea? Shouldn't we discourage this addiction of our children? I think we all agree on that. I think even the tobacco companies have come to acknowledge that they are a major part of the problem that we have today in addiction to nicotine and tobacco.

In addition to taking care of a lot of children who are uninsured and a lot of self-employed and their families by increasing the tax on tobacco products

slightly, by 10 cents or a few fractions beyond that, we will discourage children from using tobacco products. Is that a critical problem in our country? I think we all know that it is. Teenage smoking in America has risen by nearly 50 percent since 1991.

I will close with just a few brief remarks about the sales tax and just say to my colleagues it would be foolish, foolish, for us to ignore the reality that tobacco taxes are going to increase. We have asked for a survey of State existing tobacco taxes as of today. What are the taxes in each State imposed by those States and their legislatures on tobacco products? I say to my friends and colleagues if you will take a look here, you will see that more and more State legislatures are dramatically increasing tobacco taxes as a source of revenue.

For example, let me give you a few. In the State of Hawaii, the State cigarette tax will go from 60 cents to 80 cents in just a few weeks. In the State of Maine, the cigarette tax is going to double from 37 cents to 74 cents by the end of the year. In the State of Alaska, the tax rate on cigarettes and tobacco products will move from 29 cents to $1 dollar by the end of the year. In the State of Utah, from 26½ cents to 51.5 cents. State legislatures understand this is a good source of revenue. The Senate Finance Committee understood that when it added a 20-cent tobacco tax.

So I ask my colleagues to seriously consider a very minor increase of about 10 cents a pack to tobacco and measure it against what we will win as a Nation. We had this long debate a few years ago about universal health care. I certainly believe in it and subscribe to it. We did not finish that debate with a work product that achieved results. I hope with this amendment, though, we can move forward on the path toward moving more people into the protection of health insurance. The 5 million uninsured self-employed people deserve that type of protection. Those self-employed and their children will benefit greatly from this amendment.

I know that this may be a tough amendment for the Senate Finance Committee. I have watched the course of this debate over the last couple of days and it is clear that they do not always warm up to suggestions of change. Maybe this time there might be an exception. Maybe with the bipartisan support of some 53 Senators, the members of the Senate Finance Committee, the leadership, might consider this amendment. It is one which would greatly enhance the tax package which they offered.

I yield back the floor and offer my amendment.

AMENDMENT NO. 520

(Purpose: To provide for children's health insurance initiatives)

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I now send to the desk the amendment that was reported out by the Finance Committee regarding the children's health insurance initiative. This amendment provides $8 billion over 5 years for children's health insurance coverage.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Delaware [Mr. ROTH] proposes an amendment numbered 520.

Mr. ROTH. 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.")

AMENDMENT NO. 521 TO AMENDMENT NO. 520

(Purpose: To improve the children's health initiative)

Mr. ROTH. I now send to the desk a second-degree amendment pursuant to the order of the Senate agreed to today which incorporates the provisions of the Roth and Chafee amendments on the children's health initiative.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Delaware [Mr. ROTH] proposes an amendment numbered 521 to amendment No. 520.

Mr. ROTH. I ask unanimous consent that the reading of the amendment be dispensed.

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

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

Mr. ROTH. I ask the Chair this question: Do I understand correctly that the second-degree amendment which I offer is by virtue of today's order of the Senate considered adopted?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROTH. Mr. President, I ask unanimous consent to lay it aside.

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

AMENDMENT NO. 519

Mr. DURBIN. Mr. President, might I inquire of the chairman of the Senate Finance Committee, can we reach some agreement about debate that will be allowed on my amendment tomorrow when it is considered?

Mr. ROTH. I have to tell my good friend, no, we cannot agree at this time.

Mr. DURBIN. So under the rules would the amendment automatically be considered tomorrow or subject to any debate?

Mr. ROTH. It could come up tomorrow but we cannot limit debate at the present time.

Mr. DURBIN. My current understanding, I have 43 minutes left on the debate on this amendment and the opposition has 59 minutes as we have concluded debate this evening?

The PRESIDING OFFICER. The Senator is correct.

Mr. FORD. Would the chairman give me a couple of minutes to make a statement as it relates to the Durbin amendment?

Mr. ROTH. Two minutes?

Mr. FORD. Two minutes.

Mr. President, no one here in the Chamber is opposed to helping children. We have tried our best over the years, and we are trying our best now. It seems like every time you want some money you go to tobacco. We have had Senators from the other side of the aisle that voted against tax on tobacco or any other excise tax because they thought that was the prerogative of the State, and the Senator from Illinois just laid out how much additional tax is going on. So we have a negotiated agreement that people are getting something they never thought they would be able to get. We have to get that through Congress.

Now, if we had 10 cents from this committee, and 20 cents there, and 43 cents tomorrow, we have killed the agreement and there is no way the income can equal the projection because with a dollar additional on a pack of cigarettes we lose 20 percent of production and have a 20 percent reduction.

We are trying to get in this package reduction of teen smoking or underage smoking. We have a criteria there if they do not do it, they pay more money. Yet we are putting it where they cannot do that.

I say to my friends, I am from a tobacco State, absolutely, and I plead guilty to that. I am going to represent them the best I can, but pile on, pile on, pile on—you are not going to have any money left. The States won't be able to get any money and their budgets will be behind, our projections will not reach that total, we will be behind, so everybody piles on tobacco.

I hope you will take a step back with all these crocodile tears I see around here. I understand those. But there is some point where we have to meet reality, and reality is do you want to complete a job that is started or do you want to do something that will unbalance this budget within a very short period of time.

I thank the Chair, and I thank the Senator for allowing me the time.

The PRESIDING OFFICER. The Chair recognizes the Senator from Illinois.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. How long would the Senator from Illinois like?

Ms. MOSELEY-BRAUN. Five minutes.

Mr. ROTH. I yield 5 minutes to the distinguished Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, I am the first woman in history to serve on the Senate Finance Committee, and I have been just delighted to work with the chairman and his staff and my ranking member, Senator MOYNIHAN. They have been accommodating, they have been supportive and they have listened. And I have to say that this was the third occasion that I have had to work on a tax bill. While the tax bill did not result as I would have written it, at the same time, I can think of no better group with which to work than the members of the Senate Finance Committee and, particularly, its leadership.

Mr. President, I want to share a few preliminary thoughts about the tax bill. I intend to file an expanded statement at a later time. At the outset, I want to say that I intend to vote for this bill. It was worked on by the committee. We worked hard on behalf of the goals of achieving a balanced budget. We worked hard on behalf of achieving an opportunity for the American people to focus their resources in the most productive way for our economy as a whole.

When I came to Congress, my overarching goal was to create a more fiscally responsible environment, a better fiscal environment for our children. We needed to reverse the trend to borrow, to pay for things now, at the cost of having our children pay back our debts and foreclosing their options and opportunities. Even though it caused some consternation, I supported a balanced budget amendment precisely because I believe that we have an obligation to prepare and to make it easier for our children than our parents left it for us. I believed that we had to ensure that we do not leave our children in greater debt than our parents left to us.

So my main focus in coming here to Congress was to focus in on getting some order about our fiscal house, reducing the deficit, and actually beginning to create the framework in which our economy can go forward, and the strength that not having this burden of debt would have given it. For that reason, I also took the position that it was not time yet for us to go into providing for tax cuts, that we needed to restrain our desire to cut taxes until such time as our fiscal house was in order. Deficit reduction should have been our goal as a matter not only of our fiscal responsibility, but of generational fairness. And so I started off with that proposition from the very beginning.

In 1993, the first year I was here in the Senate, I voted for the budget that President Clinton submitted that began the path toward deficit reduction. Since that bill, which was very controversial at the time—I remember people calling it the "biggest tax increase in history," even though it only increased taxes on the very top wage earners or top income earners in our country. It was very controversial at the time. In fact, in the election that followed, a number of people lost office because people thought they had sent our country on the wrong fiscal path.

However, that bill has proved, I think, over time, to be the jump-start that this economy needed in order to give rise not only to the booming stock market and booming economy that we have seen, but the deficit reduction that we have seen. Since the time of that vote, the deficit has gone from about $290 billion—almost $300 billion—to $65 billion this year. Now, without a tax cut, we could have retired our debt entirely before the year 2002. While it is a fact that some of the economists argue that we don't need to worry about deficits and we don't need to retire our debt, at the same time, I think there is an expectation from the American people that we would do everything we could to get that done in as timely a fashion as possible. Reducing the deficit would have had the effect of lowering interest rates and would enable us to provide even larger tax cuts, once we have paid all our bills. But that is not the case at this time. There is consensus for cutting taxes this year—a budget deal that explicitly tailored the amounts of net tax cut and outlays with some specific parameters.

So since there is consensus on the tax cut that came out of the Budget Committee, and that is the direction we have been ordered to take in the Finance Committee, I believed that the tax cut given should be targeted to provide the maximum benefit to relieve families of the tax burden that they have to carry. Unfortunately, this bill only partially meets that goal.

The problem, as I see it, and my one sadness about what we have seen here, is that this tax bill is not progressive. To make the bill progressive, the distribution of the tax cuts should allow the largest portion of the tax cut to go to the greatest number of families. This is simply community fairness. Unfortunately, this bill still allocates the largest amount of the tax cut to the fewest number of Americans instead of the other way around.

This bill allows some 22 million American families to receive almost $40 billion in tax cuts, while 88 million families receive only about $20 billion from this tax cut. The average tax cut that will be received by families making less than $17,000 a year will be about $12. Families with incomes of less than $33,000 a year will receive an average of $64 from this tax cut. Families with incomes of less than $55,000 will receive an average $274 from this tax cut. Families earning less than $94,000 will receive an average of $583 from this tax cut. However, if you go beyond that, families with incomes above $94,000 will receive an average of $1,789 from this tax cut.

In short, Mr. President, the 22 million Americans making over $100,000 will receive 65 percent of the tax cut here, while the 88 million people earning under $100,000 will receive about 34 percent of the tax cut.

Now, there is no question that tax cuts are always popular. Many of the tax cuts which give rise to this result are popular, particularly the estate tax, capital gains reduction, and IRA expansion. But it seems to me that just based on sheer numbers, working class people should have fared better. Even though we tried to remedy some of these issues, we were not successful. Senator ROCKEFELLER and I, for example, tried to remedy the effect of the $500-per-child tax credit; nonetheless, a majority of the working poor will be excluded from the largest part of this bill.

Well, Mr. President, I have taken up my 2 minutes. I thank the chairman for his indulgence. I want to point out that, as we direct these issues of tax policy, we should be mindful that, if we really care about family values, about our total community, we need to have tax fairness as a guiding principle in our deliberations, with the greatest benefit going to the greatest number. It seems to me that what ought not to guide our deliberation is just what sounds good or what is politically popular or easy to do. We could have done a better job with this tax bill. I know the chairman tried and the ranking member tried; we all tried. This bill is a better bill than the House bill by a long shot. But, at the same time, I hope as we go into conference, we will be mindful that there are an awful lot of working people and families out there who need our help, and we have an opportunity and an obligation to give it to them.

Thank you, Mr. President. I thank the chairman for his indulgence.

I yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside.

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

AMENDMENT NO. 522

(Purpose: To provide for a trust fund for District of Columbia school renovations)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS] proposes an amendment numbered 522.

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

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

The amendment is as follows:

Beginning on page 168, line 8, strike all through page 174, line 19, and insert the following:

"SEC. 1400B. TRUST FUND FOR DC SCHOOLS.

"(a) CREATION OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Trust Fund for DC Schools', consisting of such amounts as may be appropriated or credited to the Fund as provided in this section.

"(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

"(1) IN GENERAL.—There are hereby appropriated to the Trust Fund for DC Schools amounts equivalent to the revenues received in the Treasury from the applicable percentage of the income taxes imposed by this chapter after December 31, 1997, and before January 1, 2003, on individual taxpayers during their residency in the District of Columbia.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means the percentage necessary, as determined by the Secretary, to result in revenues equal to the net losses in revenues to the Treasury that would have occurred during the period beginning after December 31, 1997, and before January 1, 2003, if the section identified as section 1400B of the Internal Revenue Code of 1986 as added by section 601 of S. 949, 105th Congress, as reported by the Committee on Finance of the Senate, had been enacted.

"(3) TRANSFER OF AMOUNTS.—The amounts appropriated by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Trust Fund for DC Schools on the basis of estimates made by the Secretary of the amounts referred to in such paragraph. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(c) EXPENDITURES FROM FUND.—

"(1) IN GENERAL.—Amounts in the Trust Fund for DC Schools shall be available, without fiscal year limitation, in an amount not to exceed $70,000,000 for the period beginning after December 31, 1997, and ending before January 1, 2008, for qualified service expenses with respect to State or local bonds issued by the District of Columbia to finance the construction, rehabilitation, and repair of schools under the jurisdiction of the government of the District of Columbia.

"(2) QUALIFIED SERVICE EXPENSES.—The term 'qualified service expenses' means expenses incurred after December 31, 1997, and certified by the District of Columbia Control Board as meeting the requirements of paragraph (1) after giving 60-day notice of any proposed certification to the Subcommittees on the District of Columbia of the Committees on Appropriations of the House of Representatives and the Senate.

"(d) REPORT.—It shall be the duty of the Secretary to hold the Trust Fund for DC Schools and to report to the Congress each year on the financial condition and the results of the operations of such Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

"(e) INVESTMENT.—

"(1) IN GENERAL.—It shall be the duty of the Secretary to invest such portion of the Trust Fund for DC Schools as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

"(A) on original issue at the issue price, or

"(B) by purchase of outstanding obligations at the market price.

"(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Trust Fund for DC Schools may be sold by the Secretary at the market price.

"(3) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund for DC Schools shall be credited to and form a part of the Trust Fund for DC Schools."

Mr. JEFFORDS. Mr. President, this is a scaled-down, in fact, a way scaled-down version of an amendment that I offered in the Finance Committee markup. It failed on a very close vote, with the full amount of close to $900 million. This is an attempt to ensure that this next winter we do not have the kinds of emergencies we have faced with the inability to finance the school repairs necessary to keep the DC schools open.

This amendment is to the provisions in the bill dealing with the District of Columbia. What this will do—hopefully, if accepted—is also place in the hands of those at the conference an amendment to help in the most critical area this city faces, and that is the decreasing capacity of its schools to even stand up, to keep the kids out of rain, and to protect the boilers from blowing up, and everything else.

It is a modest start of only $70 million, but it will open a path, hopefully, that may be utilized in case these emergencies continue to increase. What it strikes is a provision in the bill that is only a $75 million provision.

The provision that is in the bill attempts to set up some sort of tax credit system for businesses and people in the District of Columbia interested in having assistance in developing businesses. That is all very fine. I point out and emphasize again and again that that provision is in the House bill. So if mine does pass, it still will be in the committee of conference, and the members, then, will have a choice of whether they desire to try and protect the city schools from shutting down, or whether they prefer to use this provision with respect to tax credits.

Let me give you the dimensions of the school problems in this city. First, very briefly, we have, for better or worse, one of the worst school systems in this country—and this is the Nation's Capital. I remind all of my colleagues that we have accepted responsibility for those schools. We have basically replaced the city council with the control board. We have replaced the school board with the board of trustees. We have given authority to the control board to basically run the city. Yet, the capacity of the city to do anything about its schools is greatly limited. Although they have substantial revenues, those revenues are critical and important to just keeping the schools open. They have $2 billion in necessary code repairs in order to make these schools up to code.

Each year, we have had emergency appropriations to try and handle this situation. Those emergency appropriations have been in the terms of $20 million, $30 million, $40 million, $50 million a year. This is in an attempt to find a way to take care of those problems through the appropriations process in its normal form.

I point out that these tax breaks that are included, which I will strike, really do nothing to bring middle-class families back to the District. The only thing that will bring families back to the District is a school system that will provide them with schools in which their children will learn something. We have one of the worst records, as far as our students go, of any city in the country. Without that, all the other things we try to do here will not bring back the middle-class families, unless we take care of the school system.

I point out that Andrew Brimmer, chairman of the DC Control Board, says that the impact of the tax break provisions in this bill will do little or nothing. We must improve the schools and public safety. Let's get real in the efforts to help the city. Every week I travel the DC schools I see leaky faucets and roofs, broken boilers, and I could go on. The boilers are going to be the critical problem this next year. They are likely to shut the schools down in the middle of winter unless we do something. The students are suffering every day.

All my amendment will do is allow the committee of conference to have another option, along with the one I am striking, in order to be able to take care of some of the emergency repairs for the schools. So, Mr. President, I also point out what has been lost and how we have hamstrung this city to do anything about it. The District has lost more than 200,000 residents since 1970; 200,000 people have moved out. And 50,000 have moved out in this decade alone. The only way to stem this tide is to improve the District services.

There is a time and a place for tax breaks. Again, this is just putting another option on the table. But you don't offer tax breaks to attract residents back to a city where the schools are collapsing around them. That is like giving free popcorn to keep people in the seats in a burning theater.

This isn't going to work. It is important that we do something about it.

So, Mr. President, I want to make sure that we have an opportunity to give a seat to that conference committee for the kids in this city so that they may have a chance to see their schools restored to the point where this city can be proud of them and proud of their school system.

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

Mr. ROTH. 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. ROTH. 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. ROTH. Mr. President, the pending amendment is not germane to the provisions of the reconciliation measure. I therefore raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

The PRESIDING OFFICER. Until the time has been used or yielded back, the point of order is not in order.

Mr. JEFFORDS. Mr. President, I am not clear on the situation. The point of order does not lie at this time?

The PRESIDING OFFICER. The point of order is not in order until all time has been used or yielded back.

Mr. ROTH. Mr. President, I withdraw the point of order and ask that the matter be laid aside.

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

Mr. ROTH. I now yield 5 minutes to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I thank the chairman for the time.

AMENDMENT NO. 518

Mr. THOMAS. Mr. President, I wanted to talk very briefly about an issue that is before the body with regard to an amendment on mining law reform.

First, let me just say very briefly that I am delighted that this debate is going on. I am delighted that we are talking about tax relief for the first time really seriously in 10 years. We are going to hear a lot about different kinds of details. We will hear a lot of different views, and that is healthy. That is the way it ought to be.

There are many here who do not support tax relief. I understand that. It is a legitimate point of view—not one I share—of those who do not want tax relief but would rather have more Government spending. We have not had tax relief since the early 1980's. It is time we do that.

I certainly want to congratulate the chairman of the Finance Committee for bringing this package forward. It is time that we gave some relief to working families, and relieve people who are paying taxes and allow families to keep more of their own money. That is what it is all about.

We hear people say, "Well, there shouldn't be tax relief because we need to balance the budget." Their notion is that you have to balance the budget and continue to spend more. But what we ought to be doing is controlling spending. And that is part of what this package does.

We heard earlier in the evening debate about mining. I wanted to talk just a bit about two aspects of that. One is there is an amendment, of course, which would eliminate the depletion allowance for hard-rock mining. However, in the presentation we heard more about the mining law of 1872 than we did about the depletion.

Let me tell you that we would have a revised mining law of 1872 if we could get some of those who constantly complain about it to agree to something. I have been here in the House, and now in the Senate for 2 years. We have had this every year. We have been very close to having a decision. But the very folks who complain the most about not revising it are the ones who never find anything to agree to.

I can tell you that there has been agreement on the idea of having royalties from the users, from the producers, and from nearly everyone here. There has been agreement on the idea of paying marketplace price for the land, or in fact not taking title to the land. That could well be done. And I would suggest that those who complain the most about change are the ones that cause it not to happen.

I simply want to say that when you want to start talking about depletion allowance and talking about the fact that the minerals are there and free, I want to tell you that they are not free. They are not doing you much good unless there is a substantial kind of investment to extract those minerals—probably as much as $400,000 or $500,000 to be able to do it at all.

The value of the resource is not there unless someone has an incentive to invest the money to do the mining. And then, of course, the idea is to create jobs. The idea is to create jobs. Some 2,300 jobs in Nevada—high-paying jobs in the neighborhood of $50,000 a year as compared to $25,000 as a national average. These are the kind of jobs that are there. With tremendous investment in these kinds of jobs there is revenue. There are taxes, and there is payment. We ought to encourage that rather than discourage it.

The suggestion was made that somehow mining goes on and there is no reclamation of land. That is not true. There were in earlier years a lack of reclamation laws but there are not now. There are tons of laws that cause reclamation.

So, Mr. President, I do not want to go on forever. But I do want to tell you that mining is one of the basic industries in this country—that minerals are relatively valueless unless there is someone willing to make the investment to extract them. They create some of the highest-paying jobs in this country. They generate local taxes. They generate taxes through wages. And they are very much part of our economy—an economy that tends to be forced out of this country by continuing to raise taxes.

I suspect this issue is not a proper one to have there. But it is one we are talking about, and voting on in the morning.

I urge my associates here in the Senate to vote against the Bumpers proposal.

Mr. President, I yield the floor.

Mr. ALLARD addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, first of all, are we in a quorum call?

The PRESIDING OFFICER. We are not in a quorum call. But we are in controlled time. The Senator from Delaware controls time.

Mr. ALLARD. Mr. President, I ask the Senator from Delaware for permission to go ahead and make some comments, a general floor statement, and then I would like to introduce an amendment.

Mr. ROTH. I yield the Senator 10 minutes.

Mr. ALLARD. I thank the Senator. I would like to, Mr. President, compliment the chairman for his hard work on this particular piece of legislation.

Mr. President, this week I am confident that the Senate will approve the largest tax cut since the Reagan tax cuts of 1981. And it is about time.

In the 16 years since the last tax cut, Congress has enacted two major tax increases—one in 1990, and the other in 1993.

Mr. President, it is time for a change. It is time to put American families ahead of Washington, DC's insatiable appetite for more Government spending.

Taxes are now higher than they have ever been. Taxes constitute one-third of the economy. And Tax Freedom Day—the day to which the average American works to pay the combined Federal, State, and local tax burden—and that date is May 9. It is the latest it has ever been.

Mr. President, I view this tax cut as a downpayment. My long-term objective is to ensure that no American family pays more than 25 percent of its income in taxes.

A balanced Federal budget, and a reasonable level of taxation should be the twin objectives of Congress as we enter the next century.

I invite all of my colleagues to support this tax cut and to help ensure that the bridge to the 21st century does not become a giant toll bridge.

Today I would like to focus on what I call the growth tax. This is typically referred to as the capital gains tax, a term which liberals often use derisively to help create the impression that only the rich pay the growth tax.

In fact, as you may know, Mr. President, nearly all Americans own capital, and they experience a tax on that capital when they sell a house or when they sell stocks or a small business or a farm or a ranch.

Under our current Tax Code, gains on capital investment are taxed at a 28-percent Federal rate, and often an additional 5 percent or more in State taxes comes in on top of that. This is the growth tax, and this is among the highest growth tax of any major industrial nation.

The real growth tax is often much higher than 28 percent. This is because our Tax Code does not protect Americans from taxation on capital gains that result only from inflation. This means, for example, that an investment held for 10 years where up to one-third of the gain can be due to inflation, taxes are due even on this.

This is clearly one of the most unfair aspects of this tax. Government policies contribute to inflation, and Government then turns around and taxes its citizens on that inflation.

For this reason, Mr. President, I intend to fight very hard to see that indexing is included in our growth tax cut. The House bill wisely includes this provision—and I commend Chairman BILL ARCHER for this. The Senate bill, unfortunately, does not yet have indexing. Hopefully, by the end of the week, it will.

Some have dismissed indexing as too costly for this tax bill. But for me this is an issue of fundamental fairness. It is wrong for the Federal Government to tax its citizens on inflation.

It is not too costly not to include indexing. Indexing simply means that Americans would be permitted to disregard any gains due solely to inflation, and then pay taxes only on real gains.

Mr. President, let's take a look at how this capital gains growth tax hits ordinary working Americans beginning with their home.

The Tax Code generally allows gains on a personal residence to be deferred as long as the proceeds are used to purchase another larger home. However, many Americans eventually pay capital gains on their home, particularly as they get older and find that their residence has appreciated substantially in value.

Our tax bill deals with this issue by exempting all but the very rich from any taxation on gains from their principal residence. This is a long overdue reform.

Next, let's look at financial investments. Stocks are a frequent source of capital gains taxes, and stock ownership today is more widespread than ever before. Stock ownership has doubled in the last 7 years to the point where 43 percent of all adult Americans own stocks.

Obviously, with those numbers, Mr. President, it is spread throughout society. Today, half of the investors are women and half are noncollege graduates.

Stocks are typically held for retirement, education expenses, and other long-term goals. This is precisely the type of savings and investment that we need in our economy. Investments foster business expansion, and job creation. Capital is the lifeblood of a free market economy. Clearly you cannot have capitalism without capital. And our Tax Code should encourage capital investment.

Mr. President, I cannot leave this topic without talking about small business owners and farmers.

There is no clearer area where the growth tax makes no sense. Millions of American families put their lives into building small businesses and farms. Often those businesses or farms are sold to finance a decent retirement. But this can occur only after Uncle Sam gets his cut of 28 percent of all the gains. Often, over half of these gains are due only to inflation. It is no wonder that millions of our most ambitious citizens have lost faith in our tax system.

Fortunately, Mr. President, tax relief is on the way. This bill lowers the growth tax from 28 to 20 percent for most families, and those in the lowest tax bracket would pay only 10 percent. This tax cut would help make life easier for millions of Americans, and it will help our economy to grow and create new jobs.

To those Americans who own a home, who save for retirement or who own a small business or farm, I say that next time a liberal says that capital gains are only for the rich, remember, he is thinking of you.

AMENDMENT NO. 523

(Purpose: To strike the extension of the Temporary Federal Unemployment Surtax)

Mr. ALLARD. Mr. President, I now would like to 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 Colorado [Mr. ALLARD] proposes an amendment numbered 523.

Mr. ALLARD. 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 397, strike section 881.

Mr. ALLARD. This amendment would strike section 881 of the tax bill.

This section extends the so-called temporary unemployment surtax on small business and other employers through the year 2007. The House tax bill does not include this provision. The Senate bill, unfortunately, does. I rise to support the House position on this matter.

The description of this provision put out by the committee notes that in 1976 Congress passed a temporary surtax of .2 percent of taxable wages to be added to the unemployment tax rate.

I would suggest that at a minimum, if we are going to keep extending this tax, we ought to be honest with the American worker and small business owners and stop calling this a temporary tax. Enough is enough.

Between 1970 and 1990, there have been three unemployment tax rate increases and three wage base increases. These have resulted in a dramatic increase in the unemployment tax burden. There is no reason to continue this temporary surtax when we have the lowest unemployment in a quarter century and a full trust fund. This is no more than an additional and unfair general revenue raising.

The reason for the unemployment surtax no longer exists. The temporary surtax was put in place in 1976 in order to repay borrowing of the Federal unemployment trust fund from the general fund of the Treasury. Even though the borrowings were repaid in May 1987, Congress has continued to extend the surtax in tax bill after tax bill. As of today, all the States' reservoirs now have surpluses.

Since 1987, the surtax has been used solely to raise revenue to pay for tax packages. The tax takes money out of the private economy for no valid reason.

I have two concerns with this surtax. First, the Federal Government is breaking its commitment to employers and to workers that this added tax would be temporary. Clearly, it is not temporary, and if this provision remains in the bill and is enacted, the tax will have been in place for 30 years. This is not the way Government should do business.

The second problem I have is that we should not be imposing unnecessary payroll taxes. Payroll taxes cost jobs. Because small businesses are generally labor intensive, payroll taxes, which are a tax on labor, strike small businesses particularly hard. Payroll taxes are paid whether there is a profit or a loss.

I would note that high payroll taxes in Europe, particularly in Germany, is one of the principal reasons that unemployment is so high. This should be a warning to us to work steadily to limit the payroll tax on U.S. businesses.

Mr. President, I understand that there is some concern about my amendment, so I will withdraw this amendment and urge the Senate to agree to the House position on this issue.

There are a number of Senators, and I can assure you there are many thousands of small businesses, that would like to see this provision out of the bill, but before I withdraw my amendment, I would like to make an inquiry to the distinguished chairman of the Finance Committee, Senator ROTH. In light of the fact that this tax was to be a temporary tax, would the chairman consider either removing the provision

in conference or modifying it to at least terminate the tax more quickly than proposed in the bill?

Mr. ROTH. I am happy to answer the question raised by the distinguished Senator. I understand the concerns he has expressed. I understand the impact it has on small business. I say to him that this is an aspect of our proposal that was recommended by the administration, but I will certainly, in going into conference with the House Members, keep in mind the concern the Senator has expressed and look at this matter very carefully.

Mr. ALLARD. I thank the chairman for his sincerity and real concern about the surtax, and I would just, in conclusion, reflect on some of my own experiences with the surtax. When it was first applied in 1976, I was just basically starting out in my small business. I had just been in business 4 or 5 years. I had not been in business long enough to have to pay any unemployment compensation, never had to have any turnover in my business, but every dime counted in that new business. And when that surtax was imposed on that small business that I was starting at the time, it did have an impact.

I do not believe we can continue to disregard the impact that these unemployment taxes have on small businesses, particularly the small businesses that are just starting out. We need to encourage people to go in business for themselves. We need to encourage people to someday think in terms of being their own boss and being self-sufficient. These types of tax provisions do have a disproportionate impact on small businesses, particularly those just starting out.

With that, I yield back the remainder of my time.

I thank the Senator.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 523) was withdrawn.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I yield the distinguished Senator from Montana 10 minutes.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 518

Mr. BURNS. I thank the Senator. I thank the Chair.

Earlier this evening an amendment was offered to do away with the depletion allowance on mining. It seems every year we have to go through this process really explaining what the National Mining Act is all about.

Yes, we have been awfully close to coming up with some kind of agreement for reform of the act. We have been so close that everybody agreed, but one would get the feeling—although it seemed like it fell apart, I get the distinct feeling that those who would reform the act or be the reformers want the issue rather than the results. I am always reminded of John Adams when he come back to the Congress and was asked about an issue. He said duty is ours; results are reserved to God.

Let us look at the intent of the Mining Act. It is as true today as it was in the days it was written. This act has been around about 120 or 125 years. I would say to anybody who lives in this country and owns property, even though it may be his private home in an urban area, the ownership of his own home, which means land ownership or property ownership, which has been one of the cornerstones of America, the building of America and the freedom of us as a people, has been the result of a land tenure act. It was a way that we moved all the lands in this United States of America into private ownership.

That is what the Mining Act was all about. We have had only two, I think, maybe three, major land tenure acts. One of them was the Homestead Act, and that was a result of the Louisiana Purchase, where you were deeded 160 acres of land, and if you proved it up to be viable, then they gave you ownership of that land. And ever since then, it has changed hands many times, but it has allowed us to own property, land, and real estate. It has been the cornerstone of our economy.

In mining, it was a little bit different, but yet it was a land tenure act. It was a deal struck by this Government that owned millions of acres of land telling a miner that if you go out and you find a mineral, whether it be precious metals or trace minerals or whatever, and it has value and you prove it up to be a viable enterprise, we will guarantee you the surface of that land and access to that deposit. You invest your money, and if there is nothing there, we do not as a government owe you anything and you can go merrily on the way, and the land belongs and stays in the ownership of the Government of the United States of America.

I think I would be laughed out of this building if I went down to appropriations and said I have a government agency that wants to explore for silver or gold or platinum or palladium or anything else and asked for an appropriation of $20 million to explore and to prove up a claim. That is risking a lot of taxpayers' money. I would be told, why, this is the craziest thing we have ever heard. Taxpayers didn't give us the money for such a cockamamy idea of going out and exploring for that mineral.

So what did we do? We struck a deal. You invest, Mr. Miner, your money, your time, your equipment. If you find it, that's good. If you do not, then the Government is not out anything. But we guaranteed access and we guaranteed surface rights if a mineral or precious metal was found.

The National Mining Act was never an environmental act. It does not exempt mining companies from the environmental laws that are in place both by the State and the Federal Government. They are not exempt of that—clean air, clean water. They are required to reclaim it after the mine has been mined out. All it was, was to guarantee Americans access to a precious metal or mineral. Yet, those who would want to change it say that is no longer important.

We could have settled on royalties, could have settled on land price, could have settled on all of that. But the reformers refused to accept it. So I say, before we do too much changing, let's really understand what the law is all about, because it works today as it did whenever the law was made the law of the land. It seems like there are a lot of folks who do not understand that. They did not understand the Homestead Act either. This country eats, provides food for its families, cheaper than any other society in the world as a percentage of your paycheck going solely for food for your family. That was done because American agriculture owns the land. It is their farm. They make it produce. It is as competitive as selling shoes or watermelons. It does not make any difference. But all of that was the result of a land tenure act called the Homestead Act.

Why do we have to turn around and explain this every time this issue comes up? Yet, there are those who would like to twist and turn and not really represent the act for what it really is and why it was designed that way. They say gold miners get rich on gold. Where is it used, for jewelry? No, not really. We wouldn't even have a space program if we didn't have gold and silver, because there is as much of it used in electronics as there is in jewelry.

The only platinum or palladium mine is found in Montana. It is the only one in this country. It is one of three in the whole world. If you didn't have palladium, you wouldn't have catalytic converters to protect our air. Yet, there would be those who would say maybe it is not a necessity—until we look at the manufacturing and our science and our technologies, of what these trace minerals and these other minerals are really worth to this country.

Do we want to get as dependent on our precious metals and minerals as we are on oil? We are almost 51 percent dependent on oil from offshore. Is that energy policy? Does that give us energy security? I don't think so.

So we have to be very, very cautious whenever we start talking about a subject and a law that a lot of people say, "Well, they're ripping off the Government." What's just the opposite is true. Because that mine provides jobs; it provides a tax base in many counties. In the West, that is the only thing

they have. It provides public safety and roads and schools. It is the backbone of that county's economy. Yet, there are those who say tourism is growing and it is taking over and we don't need mining anymore. I don't know of anybody who wants to stand around and flip hamburgers for $4.25 an hour, or whatever it is, when you could probably get a better job producing something, producing wealth for this country. It just doesn't make a lot of sense.

Those of us who come out of, let's say, natural resources or agriculture, I guess we look at it a little bit different. But you look at it different when you come up through those ranks, as some of us in this room have done, including the Presiding Officer who is in the chair tonight. It doesn't hurt to have a little dirt under your fingernails so you understand what makes things go in this country. All new wealth, all new wealth produced in this country comes from either the renewable resource of the Earth and, sometimes, some of it from the finite resources that are found in this Earth. That is where new wealth is produced. It is produced nowhere else. Every one of us chase the dollar around. But, especially in the renewables, that is the real worth of a nation. And those renewables were produced on private land ownership where people took care of it, managed their resources and made a community and a State and a nation grow.

So, when we start talking about the national mining act and how it should be changed, let's be very cautious and remember why it was passed in the first place. Why it was passed in the first place—mining is very, very risky. I can't go to Appropriations and appropriate money just to go out and scratch around the hills and try to find a gold nugget, because it just will not happen.

So I will oppose the Bumpers amendment tomorrow. I think there will be a point of order raised on it anyway. But, nonetheless, let's not forget just exactly the reason the mining act was passed and why it works today, just like it did when it was passed 120 years ago.

Mr. President, I yield the floor.

ELECTRIC UTILITY INDUSTRY

Mr. MURKOWSKI. Mr. President, the utility industry is undergoing drastic change as a result of deregulation.

I know that municipal utilities are concerned about the tax-exempt status of their outstanding debt if they enter the competitive market. I also know that investor-owned utilities are concerned about municipal utilities using their tax-exempt debt and their tax-exempt status to gain an unfair competitive advantage. In addition, there are a host of issues relating to how electric cooperatives will fare in the emerging competitive marketplace.

I believe that we need to re-examine the Tax Code to determine how best to ensure a level playing field in the era of electricity deregulation and competition.

Because of the importance of this issue to consumers, investors, the electric power industry, and to our economy, as I told Treasury Secretary Rubin in an April 22 letter, I believe this is a matter for Congress, not the IRS, to decide.

Mr. ROTH. How does the chairman of the Energy Committee suggest we proceed?

Mr. MURKOWSKI. Mr. President, I have asked the Joint Committee on Taxation to prepare a complete analysis of tax provisions relevant to the electric utility industry. Once this report has been prepared, I believe our committees should hold hearings and make recommendations once we have had a chance to thoroughly examine these issues.

Mr. ROTH. Mr. President, I agree with the suggestion of the chairman of the Energy Committee.

Mr. MURKOWSKI. Mr. President, I thank the chairman of the Finance Committee and I look forward to working with him.

MORNING BUSINESS

Mr. GRASSLEY. Mr. President, on behalf of the majority leader, I have the task of asking unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes.

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

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, June 24, 1997, the Federal debt stood at $5,336,557,573,448.51. (Five trillion, three hundred thirty-six billion, five hundred fifty-seven million, five hundred seventy-three thousand, four hundred forty-eight dollars and fifty-one cents)

One year ago, June 24, 1996, the Federal debt stood at $5,110,927,000,000. (Five trillion, one hundred ten billion, nine hundred twenty-seven million)

Five years ago, June 24, 1992, the Federal debt stood at $3,941,032,000,000. (Three trillion, nine hundred forty-one billion, thirty-two million)

Ten years ago, June 24, 1987, the Federal debt stood at $2,293,521,000,000. (Two trillion, two hundred ninety-three billion, five hundred twenty-one million)

Fifteen years ago, June 24, 1982, the Federal debt stood at $1,070,688,000,000 (One trillion, seventy billion, six hundred eighty-eight million) which reflects a debt increase of more than $4 trillion—$4,265,869,573,448.51 (Four trillion, two hundred sixty-five billion, eight hundred sixty-nine million, five hundred seventy-three thousand, four hundred forty-eight dollars and fifty-one cents) during the past 15 years.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING JUNE 20

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending June 20, the U.S. imported 7,630,000 barrels of oil each day, 301,000 barrels fewer than the 7,931,000 imported each day during the same week a year ago.

While this is one of the very few weeks that Americans imported less oil than the same week a year ago, Americans relied on foreign oil for 54.4 percent of their needs last week, and there are no signs that the upward spiral will abate. Before the Persian Gulf war, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil? By U.S. producers using American workers?

Politicians had better ponder the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the U.S.—now 7,630,000 barrels a day.

THE CIVIL RIGHTS ACT OF 1997

Mr. HATCH. Mr. President, last year, I stated on the Senate floor that "our country stands at a crossroads on the path it travels in relations among the different races and ethnic groups that make up the American people. Down one path is the way of mutual understanding and goodwill; the way of equal opportunity for individuals; the way of seriously and persistently addressing our various social problems as America's problems. * * * Down the other path is the way of mutual suspicion, fear, ill will, and indifference; the way of group rights and group preferences."

I am proud to stand today with my colleagues in the House and the Senate, and others who have worked so hard for the cause of opportunity, to announce the introduction of the Civil Rights Act of 1997. The act represents our best efforts to recommit the nation to the ideal of equal opportunity for every American—to emphasize that we must resist the temptation to define the nation's problems in narrow racial terms, and rather must roll up our sleeves and begin the hard work of dealing with our problems as Americans, and as fellow human beings.

Of course, our critics will imply that those of us who today reject divisive racial preferences and distinctions do so because we underestimate the social, economic, and discriminatory obstacles some Americans face. President Clinton, for example, told his audience

in San Diego last week that "[t]he vast majority of [Californians who supported that state's Proposition 209] did it with a conviction that discrimination and isolation are no longer barriers to achievement." But that is just plain wrong.

To the contrary, last week in the Senate Judiciary Committee we heard from a panel of ordinary citizens who movingly told us of their experiences with discrimination in America. Among them was a Chinese-American mother from San Francisco, Charlene Loen, who told us how her young son Patrick was denied admission to an elite public magnet school, Lowell High School, because he is Chinese. The school district's efforts to ensure diversity among its students led it to employ a system of racial preference that had the effect of capping Chinese enrollment in many of its schools, forcing Chinese children to score much higher on entrance exams than children of other races. At virtually every public school Ms. Loen approached, she was first asked whether Patrick was Chinese, and when learning that he was, would inform Ms. Loen that Patrick need not apply. The Chinese quota was in effect full. Ladies and gentlemen, that is not the promise of America.

There should be no question that discrimination indeed continues to deny opportunities to too many Americans. At the Judiciary Committee's recent hearing we heard from black Americans, white Americans, Asian Americans, and even a victim of an outrageous hate crime. But the question that we all must answer is whether one American's racial suffering should be valued above another's. It is a question that will only become more complicated and more urgent as our population grows ever more diverse.

As we in the Judiciary Committee now know, when we prefer individuals of one race, we must by definition discriminate against individuals of another. But America's great social divide can never be crossed until we begin the work of building a bridge of racial reconciliation. By saying today, with the introduction of this act, that the Federal Government stands for the principle that racial discrimination in all its forms is wrong, we hope to take a small step forward on the path to healing the nation's racial wounds by recognizing that every American is equal before the law.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, 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 12:44 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 House:

H.R. 1316. An act to amend chapter 87 of title 5, United States Code, with respect to the order of precedence to be applied in the payment of life insurance benefits.

The message also announced that pursuant to the provisions of section 3 of Public Law 94-304, the Speaker appoints the following Members of the House to the Commission on Security and Cooperation in Europe: Mr. HOYER, Mr. MARKEY, Mr. CARDIN, and Ms. SLAUGHTER.

The message also announced that the House agrees to the following concurrent resolution, in which it requests the concurrence of the Senate:

House Concurrent Resolution 102. Concurrent resolution expressing the sense of the Congress that the cost of government spending and regulatory programs should be reduced so that American families will be able to keep more of what they earn.

At 5:12 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 1306) to amend the Federal Deposit Insurance Act to clarify the applicability of host State laws to any branch in such State of an out-of-State bank.

At 6:28 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2015. An act to provide for reconciliation pursuant to subsections (b)(1) and (c) of section 105 of the concurrent resolution on the budget for fiscal year 1998.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 1306. An act to amend Federal law to clarify the applicability of host State laws to any branch in such State of an out-of-State bank, and for other purposes.

H.R. 1902. An act to immunize donations made in the form of charitable gift annuities and charitable remainder trusts from the antitrust laws and State laws similar to the antitrust laws.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 1316. An act to amend chapter 87 of title 5, United States Code, with respect to the order of precedence to be applied in the payment of life insurance benefits; to the Committee on Governmental Affairs.

The following measure was read and referred as indicated:

House Concurrent Resolution 102. Concurrent resolution expressing the sense of the Congress that the cost of government spending and regulatory programs should be reduced so that American families will be able to keep more of what they earn; to the Committee on Governmental Affairs.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on June 19, 1997 he had presented to the President of the United States, the following enrolled bill:

S. 342. An act to extend certain privileges, exemptions, and immunities to Hong Kong Economic and Trade Offices.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2322. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, a draft of proposed legislation relative to the Apalachicola-Chattahoochee-Flint and Alabama Coosa-Tallapossa River Basin Compact Act; to the Committee on the Judiciary.

EC-2323. A communication from the General Counsel, Federal Retirement Thrift Investment Board, transmitting, pursuant to law, a rule relative to death benefits from the Thrift Savings Plan, received on June 16, 1997; to the Committee on Governmental Affairs.

EC-2324. A communication from the Acting Assistant Attorney General, Civil Rights Division, U.S. Department of Justice, transmitting, pursuant to law, a report of a rule entitled "Redress Provisions for Persons of Japanese Ancestry"; to the Committee on Governmental Affairs.

EC-2325. A communication from the General Counsel, Office of the Secretary, Department of Transportation, transmitting, a report of a rule entitled "Federal-Aid Highway Systems" (RIN2125—AD74), received on June 20, 1997; to the Committee on Environment and Public Works.

EC-2326. A communication from the Assistant Secretary for Human Resources and Administration, Department of Energy, transmitting, pursuant to law, a report of a proposed amendment to a Privacy Act System of Records; to the Committee on Governmental Affairs.

EC-2327. A communication from the Acting Comptroller General of the U.S., transmitting, pursuant to law, a report relative to the General Accounting Office issued in May 1997; to the Committee on Governmental Affairs.

EC-2328. A communication from the General Counsel, Federal Retirement Thrift Investment Board, transmitting, pursuant to law, a rule relative to information to participants in the Thrift Savings Plan, received on June 20, 1997; to the Committee on Governmental Affairs.

EC–2329. A communication from the General Counsel, Federal Retirement Thrift Investment Board, transmitting, pursuant to law, a rule relative to contributions to the Thrift Savings Plan by an employee, received on June 20, 1997; to the Committee on Governmental Affairs.

EC–2330. A communication from the General Counsel, Office of the Secretary, Department of Transportation, transmitting, pursuant to law, five rules relative to Airworthiness Directives (RIN2120-AA64) received on June 23, 1997; to the Committee on Commerce, Science, and Transportation.

EC–2331. A communication from the General Counsel, Office of the Secretary, Department of Transportation, transmitting, pursuant to law, six rules relative to modification of class E airspace received on June 23, 1997; to the Committee on Commerce, Science, and Transportation.

EC–2332. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule relative to North Carolina's scup commercial quota, received on June 23, 1997; to the Committee on Commerce, Science, and Transportation.

EC–2333. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule relative to lobster harvest in the Northwestern Hawaiian Islands received on June 23, 1997; to the Committee on Commerce, Science, and Transportation.

EC–2334. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report entitled "National Implementation Plan for Modernization of the National Weather Service for Fiscal Year 1998"; to the Committee on Commerce, Science, and Transportation.

EC–2335. A communication from the General Counsel, Office of the Secretary, Department of Transportation, transmitting, pursuant to law, five rules relative to safety and security zone regulations in Fort Lauderdale, Florida received on June 20, 1997; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

AIR FORCE

The following-named officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, United States Code, section 12203:

To be major general

Brig. Gen. Wallace W. Whaley, xx...

The following-named officer for appointment in the U.S. Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Henry T. Glisson, xx...

ARMY

The following U.S. Army Reserve officers for promotion in the Reserve of the Army to the grades indicated under title 10, United States Code, sections 14101, 14315 and 12203(a):

To be brigadier general

Col. Herbert L. Altshuler, xx...

The following-named officers for promotion in the Regular Army of the United States to the grade indicated under title 10, United States Code, sections 611(a) and 624:

To be major general

Brig. Gen. Phillip R. Anderson, xx...
Brig. Gen. Burwell B. Bell III, xx...
Brig. Gen. Bryan D. Brown, xx...
Brig. Gen. Julian H. Burns, Jr., xx...
Brig. Gen. Michael T. Byrnes, xx...
Brig. Gen. John S. Caldwell, Jr., xx...
Brig. Gen. Reginal G. Clemmons, xx...
Brig. Gen. George F. Close, Jr., xx...
Brig. Gen. Carl H. Freeman, xx...
Brig. Gen. Joseph R. Inge, xx...
Brig. Gen. Phillip R. Kensinger, Jr., xx...
Brig. Gen. Donald L. Kerrick, xx...
Brig. Gen. Larry J. Lust, xx...
Brig. Gen. John J. Marcello, xx...
Brig. Gen. Timothy J. Maude, xx...
Brig. Gen. Dan K. McNeill, xx...
Brig. Gen. Paul T. Mikolashek, xx...
Brig. Gen. Mary E. Morgan, xx...
Brig. Gen. Bruce K. Scott, xx...
Brig. Gen. Jerry L. Sinn, xx...
Brig. Gen. James R. Snider, xx...
Brig. Gen. Edward Soriano, xx...
Brig. Gen. Julian A. Sullivan, Jr., xx...
Brig. Gen. John D. Thomas, Jr., xx...
Brig. Gen. Howard J. von Kaenel, xx...
Brig. Gen. William S. Wallace, xx...
Brig. Gen. William E. Ward, xx...
Brig. Gen. David S. Weisman, xx...

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. David K. Heebner, xx...

The following Army National Guard of the United States officers for appointment in the Reserve of the Army to the grade indicated under title 10, United States Code, section 12203:

To be major general

Brig. Gen. Darrel P. Baker, xx...
Brig. Gen. Murrel J. Bowen, Jr., xx...
Brig. Gen. John D. Havens, xx...
Brig. Gen. Eugene S. Imai, xx...
Brig. Gen. Thomas D. Kinley, xx...
Brig. Gen. Federico Lopez III, xx...
Brig. Gen. Joel W. Norman, xx...
Brig. Gen. John C. Rowland, xx...

To be brigadier general

Col. John C. Atkinson, xx...
Col. John A. Bathke, xx...
Col. William H. Hall, xx...
Col. Dennis A. Kamimura, xx...
Col. Eugene P. Klynoot, xx...
Col. Dennis D. Krsnak, xx...
Col. Benny M. Paulino, xx...
Col. James L. Pruitt, xx...
Col. Edwin H. Roberts, Jr., xx...
Col. Charles L. Rosenfeld, xx...
Col. John R. Scales, xx...
Col. John A. Tymeson, xx...
Col. Brian D. Winter, xx...

ARMY

The following-named officers for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Richard A. Chilcoat, xx...
Maj. Gen. Thomas N. Burnette, Jr., xx...
Maj. Gen. Paul J. Kern, xx...

To be general

Lt. Gen. Eric K. Shinseki, xx...

To be lieutenant general

Maj. Gen. Robert S. Coffey, xx...
Maj. Gen. John W. Hendrix, xx...

MARINE CORPS

The following-named officer for appointment in the U.S. Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Frank Libutti, xx...
Maj. Gen. John E. Rhodes, xx...

NAVY

The following-named officers for appointment in the Reserve of the Navy to the grade indicated under title 10, United States Code, section 12203:

To be rear admiral

Rear Adm. (lh) William H. Butler, xx...
Rear Adm. (lh) Casey W. Coane, xx...
Rear Adm. (lh) William E. Herron, xx...
Rear Adm. (lh) Stephen T. Keith, xx...
Rear Adm. (lh) William J. Logan, xx...

The following-named officer for appointment in the U.S. Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Henry C. Giffin III, xx...

The following-named officers for appointment in the U.S. Navy to the grade indicated under title 10, United States Code, section 624:

To be rear admiral

Rear Adm. (lh) Timothy R. Beard, xx...
Rear Adm. (lh) David L. Brewer III, xx...
Rear Adm. (lh) Stanley W. Bryant, xx...
Rear Adm. (lh) Toney M. Bucchi, xx...
Rear Adm. (lh) William W. Copeland, Jr., xx...
Rear Adm. (lh) John W. Craine, Jr., xx...
Rear Adm. (lh) Robert E. Frick, xx...
Rear Adm. (lh) Paul G. Gaffney II, xx...
Rear Adm. (lh) Edmund P. Giambastiani, Jr., xx...
Rear Adm. (lh) John J. Grossenbacher, xx...
Rear Adm. (lh) James B. Hinkle, xx...
Rear Adm. (lh) Gordon S. Holder, xx...
Rear Adm. (lh) Martin J. Mayer, xx...
Rear Adm. (lh) Barbara E. McGann, xx...
Rear Adm. (lh) Charles W. Moore, Jr., xx...
Rear Adm. (lh) John B. Nathman, xx...
Rear Adm. (lh) William R. Schmidt, xx...
Rear Adm. (lh) Robert C. Williamson, xx...

To be rear admiral (lower half)

Capt. Joseph W. Dyer, Jr., xx...

(The above nominations were reported with the recommendation that they be confirmed.)

Mr. THURMOND. Mr. President, for the Committee on Armed Services, I report favorably 17 nomination lists in the Air Force, Army, Marine Corps, and the Navy which were printed in full in the CONGRESSIONAL RECORDS of January 9, February 5, April 7, May 15, June 2, 6, 10, and 11, 1997, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

(The nominations ordered to lie on the Secretary's desk were printed in

the RECORDS of January 9, February 5, April 7, May 15, June 2, 6, 10, and 11, 1997, at the end of the Senate proceedings.)

**In the Army there are 345 appointments to the grade of colonel (list begins with John A. Adams) (Reference No. 155).

**In the Army there are 130 appointments to the grade of colonel (list begins with Robert T. Anderson) (Reference No. 194).

**In the Marine Corps there is 1 appointment to the grade of colonel (Gilda A. Jackson) (Reference No. 271).

**In the Air Force there is 1 appointment to the grade of major (Andrew J. Jorgensen) (Reference No. 315).

**In the Army there are 34 appointments to the grade of lieutenant colonel (list begins with Charles R. Bailey) (Reference No. 316).

**In the Army there are 5 appointments to the grade of major (list begins with Chessley R. Atchison) (Reference No. 317).

**In the Marine Corps there is 1 appointment to the grade of colonel (Richard L. Songer) (Reference No. 318).

**In the Marine Corps there are 51 appointments to the grade of captain (list begins with Robert E. Ballard) (Reference No. 319).

**In the Navy there is 1 appointment to the grade of commander (Timothy S. Garrold) (Reference No. 320).

**In the Marine Corps Reserve there are 47 appointments to the grade of colonel (list begins with David J. Biow) (Reference No. 352).

**In the Navy there are 348 appointments to the grade of captain (list begins with James P. Adams) (Reference No. 353).

**In the Army Reserve there are 3 appointments to the grade of colonel (list begins with Robert R. Bottin, Jr.,) (Reference No. 360).

**In the Marine Corps there is 1 appointment to the grade of colonel (John M. Metterle) (Reference No. 367).

**In the Marine Corps there is 1 appointment to the grade of lieutenant colonel (John J. Egan) (Reference No. 368).

**In the Army there are 269 appointments to the grade of major (list beings with Doreen M. Agin) (Reference No. 369).

**In the Army there are 377 appointments to the grade of major (list beings with Bret T. Ackermann) (Reference No. 370).

**In the Navy there are 216 appointments to the grade of captain (list beings with Christine L. Abelein) (Reference No. 373).

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. KERRY (for himself, Mr. BUMPERS, Mr. HARKIN, Mr. GRASSLEY, Ms. LANDRIEU, Mr. CLELAND, Mr. LIEBERMAN, Mr. WELLSTONE, Mr. LEVIN, Ms. SNOWE, and Mr. LAUTENBERG):

S. 956. A bill to amend section 7(m) of the Small Business Act to establish a Welfare-to-Work Microloan Pilot Program; to the Committee on Small Business.

By Mr. BINGAMAN (for himself, Mr. JEFFORDS, Mr. BOND, Mr. MACK, and Mr. D'AMATO):

S. 957. A bill to establish a Pension ProSave system which improves the retirement income security of millions of American workers by encouraging employers to make pension contributions on behalf of employees, by facilitating pension portability, by preserving and increasing retirement savings, and by simplifying pension law; to the Committee on Labor and Human Resources.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 958. A bill to provide for the redesignation of a portion of State Route 17 in New York and Pennsylvania as Interstate Route 86; to the Committee on Environment and Public Works.

By Mr. LAUTENBERG:

S. 959. A bill to amend chapter 44 of title 18, United States Code, to prohibit the sale or transfer of a firearm to, or the possession if a firearm by, any person who is intoxicated; to the Committee on the Judiciary.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 960. A bill to amend the Atomic Energy Act of 1954 to authorize the Nuclear Regulatory Commission to direct that a portion of any civil penalty assessed be used to assist local communities; to the Committee on Environment and Public Works.

By Mr. INOUYE (by request):

S. 961. A bill to provide for rail passenger programs; to the Committee on Commerce, Science, and Transportation.

By Mr. BOND:

S. 962. A bill to amend the Indian Gaming Regulatory Act with respect to certain gaming practices on tribal lands held in trust by the Secretary of the Interior, and for other purposes; to the Committee on Indian Affairs.

By Mr. CHAFEE (for himself, Mr. GRAHAM, Mrs. BOXER, Mr. BENNETT, Mr. HATCH, and Mr. MOYNIHAN):

S. 963. A bill to establish a transportation credit assistance pilot program, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. MOSELEY-BRAUN [for herself and Mr. DURBIN]:

S. Res. 103. A resolution to congratulate the Chicago Bulls on winning the 1997 National Basketball Association Championship and proving themselves to be one of the best teams in NBA history; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KERRY (for himself, Mr. BUMPERS, Mr. HARKIN, Mr. GRASSLEY, Ms. LANDRIEU, Mr. CLELAND, Mr. LIEBERMAN, Mr. WELLSTONE, Mr. LEVIN, Ms. SNOWE, and Mr. LAUTENBERG):

S. 956. A bill to amend section 7(m) of the Small Business Act to establish a Welfare-to-Work Microloan Pilot Program; to the Committee on Small Business.

THE WELFARE-TO-WORK MICROLOAN PILOT PROGRAM ACT OF 1997

Mr. KERRY. Mr. President, I send a bill to the desk and ask for its appropriate referral.

Mr. President, I am pleased to introduce today the Welfare-to-Work Microloan Pilot Program Act of 1997, and I do so with Senators BUMPERS, HARKIN, GRASSLEY, LANDRIEU, CLELAND, LIEBERMAN, WELLSTONE, LEVIN, SNOWE, and LAUTENBERG. I thank and congratulate all of them for their commitment to this important program. This legislation will assure that Americans who have had to rely on public assistance have the same opportunities as other Americans to start and operate a small business.

Mr. President, America is the home of the entrepreneurial frontier. Here, anyone can explore boundless opportunities to try new things, to begin again, and to build new lives. Americans have inherited characteristics from the frontiersmen—embracing risk, change, and individualism—and applied it directly to starting and expanding American small businesses. As the ranking member of the Small Business Committee and a Senator from Massachusetts, I am honored to represent a State that employs more and more people and continues to fuel the national economy and job market. Massachusetts' 360,000 small firms are employing over 50 percent of our workers. From 1991 to 1995, all American businesses with fewer than 500 employees created 11 million new jobs, while businesses with more than 500 employees cut three million jobs overall.

I want to open the entrepreneurial frontier to all Americans who want to leave the welfare system behind and build new lives for themselves and their children.

The Welfare-to-Work Microloan Pilot Program is geared to assist people in moving people from welfare into the work force, not just as workers but as entrepreneurs. It is more than a jobs bill. It will not only build businesses, but it will build communities. This bill builds on the foundation of the SBA's remarkable Microloan Program which allows businesses and startup companies to receive development counseling and small loans of up to $25,000. The average microloan size is only $10,800. Under the Welfare-to-Work Microloan Pilot Program local organizations will serve welfare recipients by using SBA grants for intensive business development assistance. In addition, the bill will allow local organizations to help future business owners overcome two of the greatest obstacles that they have, access to affordable transportation and convenient child care.

Mr. President, I urge my colleagues to support this legislation—to assure that the American dream can be realized by all Americans and future generations. We must build a system now that will help our children. One in five of America's children—14.3 million—live in poverty. Two-thirds of welfare recipients are children. If we want to lift them up and out of poverty, we must give them new opportunities to explore and benefit from the resources of America's frontier. We must act now to provide their parents and guardians

with a map across the entrepreneurial frontier.

Mr. President, the fact is that this type of program has already worked, and I just want to share a couple of quick examples with you. One of the people who has already received this type of grant under the Microloan Pilot Project is Karla Brown, owner of Ashmont Flowers Plus in Boston. In 1990, she found herself divorced with a young daughter, a mountain of debt, bad credit and unemployed as a result of major surgery. After being on disability for 3 years, she decided to start her own business. In 1993, she started selling flowers at a subway station. As the business grew, she leveraged the resources of local organizations, developed a business plan, received an SBA funded Microloan, and opened a store in Codman Square, a critical commercial node in a low-income neighborhood in Boston. With a $19,000 loan from the Jewish Vocational Service in Boston and a tremendous commitment to become a successful entrepreneur, she is now the proud owner of a business that has annual sales of $100,000 and employs two people part-time. Karla Brown's big idea of a flower shop was one of many new businesses applauded by an article entitled "SBA Microloans Fuel Big Ideas" in a recent issue of the U.S. Chamber of Commerce's magazine.

Karla is joined by others on this entrepreneurial frontier. In 1995, the Western Massachusetts Enterprise Fund made a loan of less than $10,000 to a divorced, single mother who was receiving public assistance. The woman believed in her own skills as a hairdresser and her own personal efforts. With the help of her community organization, she developed a marketing plan, targeted special underserved markets—homebound elderly, group home residents' and disabled people—and, in just 2 years, she is now busy with appointments all day long and has never missed a loan payment. In fact, under the SBA's Microloan Program, the Government has not lost one dime in the 6 years of operation because loan repayment rates are so high. The reason this program is so successful is because the SBA provides grants for technical assistance for the loan recipients and helps to make certain that these ventures are successful.

Another Massachusetts organization, Jobs for Fall River, Inc., saw the potential in a 35-year-old woman who was relying on welfare while caring for her elderly mother and her young son. She wanted to start a business to design clothing. Her first attempt at the enterprise failed because she was not able to afford the child care, transportation costs, and operating costs for running the business without a loan. However, after attending an 8-week intensive training session, she was able, through the assistance of Jobs for Fall River and SBA-provided funding, to develop a business plan and receive a loan in May of 1996.

We can open the entrepreneurial frontier for more Americans on public assistance with the Welfare to Work Microloan Pilot Program—partnering the resources of the SBA with local organizations like the Western Massachusetts Enterprise Fund, Jobs for Fall River, and the Jewish Vocation Services in Boston.

During a recent hearing before the Small Business Committee, an inspiring witness from Iowa, Mr. John Else of the Institute of Social and Economic Development, told of the successes his organization is working with welfare recipients under the SBA Microloan Program. Individuals in their program have a business success rate that is three times higher than the average for new businesses. His testament, combined with the requests of other local organizations for more flexibility to help this community, convinced me that we need to expand the success of this program.

Opening the frontier for more small businesses is critical to achieving the aims of welfare reform. States are now facing tall goals to reduce the welfare roles—their caseloads must be reduced by 25 percent this year under the new law. The growth in job creation is directly parallel to the growth in small businesses. In America today, there are over 22 million small businesses compared with only 14,000 big businesses. We see more women than ever exploring the entrepreneurial frontier. Women-owned businesses represent one-third of all U.S. companies, contribute more than $1.5 trillion in sales to the U.S. economy, and employ more people than the Fortune 500. Women-owned sole proprietorships have a start-up rate twice that of male-owned businesses. It is important for us to help women move into entrepreneurial roles because women comprise a large share of welfare roles. I suggest that the program I am introducing today is an excellent way to move people from welfare into the marketplace, not just as workers and wage earners, but as business creators, as people who will be able to provide jobs for other people as well as gain their own self-sufficiency.

Because the record shows that during the 6 years of the Microloan pilot project the Federal Government has not suffered one loss, we ought to be prepared to replicate these results with programs that create more jobs and enhance the economy. I hope my colleagues will support this effort.

Mr. HARKIN. Mr. President, I rise to express support for the Welfare-to-Work Microloan Pilot Program Act of 1997. The existing Small Business Administration [SBA] Microloan Program has enjoyed great success in moving people off welfare and helping them start their own business. The welfare-to-work initiative will not only continue this success, but it will also improve the services provided by the current Microloan Program.

The existing Microloan Program has two components. First, it works to provide short-term loans of up to $25,000 to small businesses. SBA makes these loans through various nonprofit organizations that have close ties to their communities. Second, the Microloan Program also provides technical assistance to help clients learn important skills such as accounting, marketing, and advertising.

It is important that we continue the Microloan Program, and we must also look to implement other services that will make it more effective. The welfare-to-work initiative does just that by establishing a 3-year program that will continue and expand upon the existing program. Like the current law, this bill will extend loans and technical assistance, but it will also allow for more business planning and training assistance prior to extending loans to welfare recipients. It will also allow intermediaries to use supplemental grants to help borrowers with transportation and child care expenses. Extending these services is essential in order to allow welfare recipients who don't have the money for transportation and child care to participate in the program.

An example of the Microloan Program's success is the Institute for Social and Economic Development [ISED] in Iowa City, IA. ISED is different from most development corporations in the Microloan Program because it does not extend loans to its clients. Rather, it provides technical assistance and will act as an intermediary to set up a loan between their client and a bank. ISED's technical assistance program provides structured training in which clients develop plans for a profitable business. Due to this effort, ISED has enjoyed an extremely high success rate, with 70 percent of its client's businesses still operational. This statistic becomes even more impressive considering that of all the small businesses started across the Nation in the last 8 years over 70 percent no longer exist.

We must recognize that the welfare-to-work initiative benefits both welfare recipients and our taxpayers. The Microloan Program presents welfare recipients with the preferable option of self-employment as a means to move off welfare. At the same time, it saves the State money and moves people from being welfare recipients to taxpayers. In Iowa, nearly 400 welfare recipients have started and maintained their own small business, and the total savings to the State have been $1 million in welfare benefits alone.

The welfare-to-work initiative gives welfare recipients the opportunity to

be self-sufficient. It provides the entrepreneur with the money to start a business, and the skills and services to maintain it.

By Mr. BINGAMAN (for himself, Mr. JEFFORDS, Mr. BOND, Mr. MACK, and Mr. D'AMATO):

S. 957. A bill to establish a Pension ProSave system which improves the retirement income security of millions of American workers by encouraging employers to make pension contributions on behalf of employees, by facilitating pension portability, by perserving and increasing retirement savings, and by simplifying pension law; to the Committee on Labor and Human Resources.

THE RETIREMENT SECURITY FOR ALL AMERICANS PENSION PRO-SAVE ACT

Mr. BINGAMAN. Mr. President, the problem of retirement security is an ever mounting challenge to the future welfare of our Nation. More than 51 million Americans are not covered by any kind of pension plan. The aging of the baby boom generation will dramatically increase the retired population in proportion to the working population early in the next century. By the year 2029, when the youngest baby boomers reach age 65, more than 68 million persons will be older than 65—accounting for more than 20 percent of the U.S. population, compared to just 12 percent today.

In my own State of New Mexico just 29 percent of our work force has some kind of pension plan. As this chart shows, New Mexico has the worst ranking in the Nation in terms of workers covered by pensions. Just a few States have private sector working populations with over 50 percent covered by pensions.

Our Nation is facing certain crisis if we fail to take steps to correct this problem of people working until retirement—and finding that their Social Security benefits fail to maintain adequate and acceptable living standards. Despite the proliferation of retirement products in various forms of IRA's and 401(K) plans, patterns clearly show that those who earn enough to save probably do. Our problem is that over the last 18 years, we have had no increase in the percentage of our work force that is participating in a qualified pension program.

Those who are well off and can look forward to retirement security cannot afford to just abandon those who are not. We have a market failure that we must address, particularly as the Nation's traditional safety net is being rolled back because of budget cuts on so many other fronts. I am not opposed to improving and even expanding the pension plans of those who have them now. My concerns, however, are focused on the reality that we are improving existing pension plans, expanding IRA opportunities and creating new forms of individual retirement accounts, but we are still doing absolutely nothing to get a large portion of our uncovered work force covered by some degree of retirement savings.

The costs of doing what we need to do will be large. But let's think for a moment about the IRA provisions in the tax bill we are discussing today. The IRA expansion provisions in the Senate version of the bill cost approximately $3.3 billion during the first 5 years and $20.5 billion in the following 5 years. These costs may be appropriate and necessary—but at the same time, we need to confront the revenue impact of covering the parts of our society that currently have no retirement savings at all. I think that it is poor public policy to expand only one-half of the equation like we have been doing.

Mr. President, in order to ensure that this Congress does face the issue of retirement security for all working Americans and not just the fortunate minority who are saving, I am here to introduce the "Retirement Security for All Americans Pension Pro-Save Act."

The bill I am introducing outlines a concept for pension expansion and portability that has been discussed in this Chamber several times over the last several decades but which has not evolved until now as legislation. The Pension ProSave System, a clearinghouse for individual pension accounts, would improve the retirement income security of millions of working Americans by encouraging employees to make contributions on their behalf, by facilitating pension portability, by preserving and significantly increasing retirement savings and by simplifying pension law.

Mr. President, this plan is not aimed at the existing pension and savings structures in this country. This proposal targets those who are working their way toward retirement—and will have little or nothing to supplement their Social Security benefits. Despite 18 years of availability of simplified pension plans, pension coverage remains low in the small business sector. Even when covered by a tax-advantaged pension plan, workers do not always continue to save their pension assets when they can receive them when moving from one place of employment to another. Tax penalties unfortunately have not been very successful in discouraging the spending of these mid-career retirement savings disbursements. Of the $47.9 billion in pre-retirement distributions made in 1990, less than 20% of recipients reported putting the entire distribution into another tax-qualified retirement plan.

The Pension ProSave Clearinghouse is modeled after the highly successful Teachers Insurance and Annuity Association-College Retirement Equity Fund [TIAA-CREF], the largest private pension system in the world with assets over $136 billion and about 1.7 million participants at about 5,500 institutions. Not replacing existing pension programs, Pension ProSave is designed to supplement these other programs and will increase pension coverage to millions of Americans.

The benefits of Pension ProSave are first, that this plan would provide an incentive and a simple, hassle free way for employers to provide portable pension benefits to their workers. Employees could also make matching contributions to their accounts on a 2:1 basis to a maximum of $6,000. The employer's contributions also would not exceed $6,000. Mr. President, I want to emphasize that these are the employee's accounts—not the government's and not the employer's. These accounts will remain with those workers the duration of their lives.

Second, Pension ProSave would stop the leakage of retirement savings by furnishing employer's pension contributions into a privately managed, pension portability clearinghouse. Worker's account balances would be invested and managed by private sector firms in diversified portfolios.

Let me explain how Pension ProSave would work. Any employer wishing to take advantage of the Pension ProSave Program would furnish the names of all employees, employed for at least 6 months and over 21 years of age, to the ProSave Portability Clearinghouse established in this Act. The employer will indicate each employee's salary and the uniform percentage of all salaries which the employer will contribute to employee ProSave accounts. The employer will have the option of changing its percentage contribution each year, as long as that contribution equals at least 1 percent. This can help business owners—who want to provide pension benefits to their employees—avoid getting locked into a rate that remains fixed while the economic performance of their small businesses may be volatile.

Once a ProSave account is established for an employee, the employer will forward contributions to the account at the time of each paycheck or at least prior to the end of that year.

With the agreement of the employee, an employer who has another defined benefit or defined contribution plan for its employees and who does not choose to establish ProSave accounts will still be able to use the portability clearinghouse as a repository for retirement funds of an employee who is leaving its employ. When a worker leaves one job where retirement benefits have accrued, the employee may request the employer to deposit the cash value of those retirement benefits—or any portion of them—in the ProSave account of the employee at the portability clearinghouse.

Mr. President, the funds contributed by an employer to the retirement security of his or her employees by way of

a ProSave account will remain there and be invested at the direction of the employee until retirement. The portability clearinghouse will contract with investment firms to manage funds through the clearinghouse. Investment options would include a fixed income fund, an equity fund, a government securities fund, small business capitalization fund, an international fund, and an infrastructure fund. Accounts would be valued on a daily basis, and participants could transfer funds among investment accounts at intervals determined by an oversight board, perhaps at monthly or quarterly intervals. Employers will have no responsibility for administering a pension fund or managing funds for employees who have left their employment. This should be very attractive to businesses that do not desire to carry long-term responsibilities for workers who have moved on.

While employer contributions are locked into the Pension ProSave accounts until retirement, funds contributed by the employee are available to be loaned for certain purposes and under terms established by the Portability Clearinghouse Board.

At retirement, account balances would be paid out either in the form of an annuity—with survivor benefits—or a lump sum retirement. Spousal consent would be required.

Mr. President, I have no doubt that some who oppose this plan will rattle the cages and make claims that this act is nothing but more big Government, another bureaucratic institution that spreads the Government further into our lives. These claims will be wrong—and will only serve to help maintain an economic reality that permits those best off in our society to save up to $30,000 a year on a tax-advantaged basis. Others in simple 401(k) plans can save up to $9,500 a year. It is unacceptable that workers who don't have an available pension plan—can only save $2,000 a year in IRA accounts.

We have a responsibility not only to create a more equitable savings structure for those Americans who have the desire and wherewithal to save—but also to the many Americans who are low-income workers who move from job to job eventually to retirement, finding then that nothing has accrued to help them in their retirement years.

Government had a role in establishing IRA's and 401(k)'s. Now we must do what we can to provide incentives to employers to provide modest retirement security for more employees. This plan is an enabler—it creates a structure, similar in many ways to the TIAA-CREF model established at the beginning of this century by Andrew Carnegie to provide pension portability for professors and university employees moving between one higher education institution and another.

This is an issue in which the Government does have an important role to play because the market has failed to provide the extension of pension coverage to 51 million Americans. Pension ProSave promotes savings, helps more people reach retirement with pensions, helps buffer against the turbulence of the economy, and provides many employers with a good vehicle for profit-sharing. All of these are benefits for our Nation as a whole.

For the employer, Pension ProSave provides a hassle-free, no red-tape way to make contributions to a pension—and frees employers from the responsibility and requirement of administering a pension plan.

The plan also increases the amount of the tax-deferred savings permitted for the employer and each employee. It gives the employer a vehicle for profit-sharing, and the employer escapes any and all responsibility for the employee's pension. Funds contributed to Pension ProSave will be exempt from other savings limits under current law for other pension products. This should provide a powerful incentive to owners of small businesses who can save more themselves if they make equivalent commitments to their employees.

For the employee, the benefits are most importantly that millions of pension-uncovered workers in this country will get coverage. This plan increases the amount of tax-deferred savings permitted to each employee, provides immediate vesting, and removes the concern that employees might have about the solvency of pension plans or their previous employers. Among other benefits, Pension ProSave eliminates political corruption in the administration of pension funds and provides one account that can be permanently maintained and in which funds can continually accrue no matter the number of job changes in a worker's career.

By having national visibility, Pension ProSave would make the concept of saving for retirement more attractive and appealing to employees. This plan would increase employer pension contributions on behalf of their workers without existing pension plans, rather than relying on 401(k) plans that are funded largely by employees' voluntary saving decisions. Employers would be able to make voluntary, tax-deductible contributions on behalf of their workers and would have flexibility in the amount they contribute each year.

Vesting would be immediate. Plan sponsors would be relieved of the expense and responsibility of providing financial education to their employees and the legal implications of providing investment options.

Mr. President, I think that one cause of the extraordinary economic anxiety in our Nation is related to the eroding sense of financial security at retirement. A recent study of workers' views of their present and future economic circumstances found that most people believe that despite the twists, turns, and pitfalls in our rapidly changing economy, they can chart a successful course to retirement. But their anxiety levels were extremely high when concerns about the solvency of Social Security and about the great number of Americans without pension benefits were mentioned.

Americans include retirement security in their personal strategies for economic success. I believe that America is calling for a credible proposal that will get more of our citizens covered by some kind of pensions.

There is no doubt that the costs will be high and will impact the Nation's short term tax revenue. However, it is also clear that increasing retirement savings will help bolster national savings, which will help spur more long-term investment and economic growth. The high cost of this plan would be true of any plan that succeeds in establishing more retirement security for our working population. We seem to be willing to sustain high costs for expanding retirement opportunities for some; I just think we need to make sure that we are doing whatever we can to provide retirement savings coverage to the rest of society.

These are costs that we must consider and should bear—for the long term benefit of our Nation in whole. Establishing Pension Pro-Save accounts is an investment that will help our Nation better able to cope with the retirement savings crisis that we will certainly face in the future.

Mr. JEFFORDS. Mr. President, I am pleased to be an original cosponsor of the Pension ProSave Act with Senator JEFF BINGAMAN of New Mexico. Senator BINGAMAN has done yeoman's work in drafting this bill. I hope my colleagues will take time to read the bill and join us as cosponsors.

As the average age of Americans is rising at a steady rate, we all have become more aware of the importance of retirement programs and retirement security. At the same time, only about half of all workers are covered by a retirement program—and of those, many who are covered, work for a Federal, State, or local government entity. An incredible 87 percent of workers employed by small businesses, those with fewer than 20 employees, have no private retirement or pension coverage. Less than 40 percent of the 33 million Americans aged 65 and older collect a pension, other than Social Security. These numbers are cause for concern.

There are three sources for retirement security: Social Security, personal savings and a pension. Our bill has been offered in an effort to expand pension coverage, especially among small business establishments where coverage and participation is least likely to occur. The complexity and expense involved in setting up a pension plan is daunting. It is outside the grasp

of many small businesses. In addition to administrative complexity and the cost of hiring an actuary, accountant and a lawyer to set up a plan, a small business often decides against plan sponsorship because of laws and regulations that actually discriminate against them, such as the prohibition on matching contributions for self-employed individuals, or limitations on contributions for small plans that are even lower than those permitted for the medium-sized or large pension plan.

Pension ProSave would permit the establishment of either a simplified defined contribution or a defined benefit pension plan or both, with greatly reduced recordkeeping, reporting and regulatory requirements. The ProSave system encourages thrift, through its defined contribution provisions, which are individual account plans and similar in concept to an IRA or a 401(k) plan, and through its simplified defined benefit plan provisions which are traditional pension plans promising a specific benefit payment upon retirement.

In addition, one of the most appealing features of Pension ProSave is the portability clearinghouse. The clearinghouse would make it easier for workers with ProSave accounts to take their pensions with them as they change jobs. True pension portability has been a most elusive objective for policymakers and yet it is one of the most important features that Americans want in pension programs.

A lack of portability also discourages long-term pension savings because it can encourage leakage. Pension system leakage occurs when a worker changes jobs and either cashes out a pension benefit or receives a lump sum distribution from a retirement plan and spends the money, rather than saving it. Taxing distributions has not stopped leakage from the system. The more difficult it is for that worker to transfer his account from one plan to another, the more likely it is that the worker will just spend the money. The more complicated and punitive the laws and regulations surrounding pension rollovers, the less likely a worker is to bother to make one. He or she will simply pay the penalty tax and spend the money.

Consequently, pension experts have spent a great deal of time and effort trying to figure out ways to ease these pension rollovers and overcome obstacles to portability so that people can save their all retirement money in a single account.

Let me pause for a moment to say that while Pension ProSave's portability feature is the result of many years of consultation and careful drafting, we realize that it would be quite difficult to justify a new government sponsored entity in these days of fiscal stringency. Our experience with the Pension Benefit Guaranty Corp. leads me to suggest that there could be a more efficient means of making Pension ProSave accounts portable than by establishing a new government sponsored entity to manage and invest them.

Individual retirement accounts (IRAs) are portable and yet can be invested in banks, certificates of deposit, mutual funds, equities or any number of other investment vehicles. Should we permit Pension ProSave accounts to be managed and invested in the private sector and if so, how should that be accomplished? By leveraging the power of the private sector, savers have the potential for more investment choices, and for higher rates of return on their investments. In addition, there currently exists in the private sector, mutual fund/401(k) clearinghouses which are used to track individual accounts and keep records of investments and account balances. Are these models for the Pension ProSave clearinghouse?

I look forward to hearing about these and other substantive and drafting issues from experts who are concerned about increasing retirement savings at the individual level and in increasing retirement coverage among small businesses where it is needed the most. I am especially interested in the concept of a simplified defined benefit plan which is portable and hope that we can explore that issue when hearings are held on this bill in the Labor and Human Resources Committee. Pension ProSave Act is a good bill. I am proud to cosponsor it and thank Senator BINGAMAN for his leadership in bringing us together to introduce it.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 958. A bill to provide for the redesignation of a portion of State Route 17 in New York and Pennsylvania as Interstate Route 86; to the Committee on Environment and Public Works.

THE REDESIGNATION OF ROUTE 17 AS INTERSTATE 86 ACT OF 1997

Mr. MOYNIHAN. Mr. President, I rise today with my distinguished fellow Senator from New York to introduce legislation that will redesignate sections of New York and Pennsylvania Route 17 as Interstate 86. The southern tier of New York has waited over 40 years for this historic legislation that will correct a mistake made in 1955 that has contributed to the economic decline of this once prosperous region.

When the original plans were being developed for the New York Interstate System, Route 17 was to be designated the main east-west interstate route. The (Federal) Bureau of Public Roads thought otherwise. They preferred the New York State Thruway which was already under construction using State moneys. Albany did not object nor did representatives of the region.

The error had no significance at the time, since no special funding was available for interstates. The very next year, however, the Federal-Aid Highway Act of 1956 was enacted, creating a Highway Trust Fund to be funded through gasoline taxes. The Federal Government would now pay 90 percent of the cost of any interstate segment. The Southern Tier Expressway—Route 17—was not eligible for those interstate funds.

In the 1950's the region was still bustling—IBM was in Binghamton, half the television sets in the world were built in Elmira, Corning was a high tech contender, and Jamestown was a major manufacturing center. What begun as an Indian trail, became a great railroad, and a strikingly creative industrial corridor, was allowed to languish.

It is time we do something about it.

This legislation we introduce today would finally ameliorate the legacy of an opportunity missed long ago.

The bill would immediately designate 360 miles of Route 17 between Erie, PA and Harriman, NY, that meet Federal interstate construction standards as Interstate 86, creating connections to I-90, I-390, I-81, I-84, and I-87. The remaining 30 miles of Route 17 would be designated as a future part of the interstate system and will become I-86 as soon as the State Department of Transportation upgrades them. I am confident the NYDOT, working together with the Federal Highway Administration, will soon have the rest of Route 17 up to interstate standards.

The southern tier region, along with the rest of Upstate New York, has suffered enduring economic hardship and job losses, even as the national economy has boomed. The bill I propose to redesignate Route 17 as I-86 would help enhance the visibility of this important region and highlight its potential for business development and tourism.

I would also like to recognize the efforts of Samara Barend, a southern tier native, who was so effective in mobilizing support for this issue. I urge my colleagues to join with me in support of this most important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 958

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds that—

(1) the designation of a portion of State Route 17 in New York and Pennsylvania as an Interstate route would promote the visibility of the region, the potential of the region for business development and tourism, and the economic regrowth of the region; and

(2) a major portion of State Route 17 is a logical addition to the Interstate System and will provide an east-west interstate

highway that benefits a large region of New York and Pennsylvania that has suffered competitively from the lack of such a highway.

SEC. 2. DESIGNATION OF PORTION OF STATE ROUTE 17 IN NEW YORK AND PENNSYLVANIA AS INTERSTATE ROUTE 86.

(a) IN GENERAL.—Subject to subsection (b)(2), the portion of State Route 17 located between the junction of State Route 17 and Interstate Route 87 in Harriman, New York, and the junction of State Route 17 and Interstate Route 90 near Erie, Pennsylvania, is designated as Interstate Route 86.

(b) SUBSTANDARD FEATURES.—

(1) UPGRADING.—Each segment of State Route 17 described in subject (a) that does not substantially meet the Interstate System design standards under section 109(b) of title 23, United States Code, in effect on the date of enactment of this Act shall be upgraded in accordance with plans and schedules developed by the applicable State.

(2) DESIGNATION.—Each segment of State Route 17 that on the date of enactment of this Act is not at least 4 lanes wide, separated by a median, and grade-separated shall—

(A) be designated as a future part of the Interstate System; and

(B) become part of Interstate Route 86 at such time as the Secretary of Transportation determines that the segment substantially meets the Interstate System design standards described in paragraph (1).

(c) TREATMENT OF ROUTE.—

(1) MILEAGE LIMITATION.—The mileage of Interstate Route 86 designated under subsection (a) shall not be charged against the limitation established by the first sentence of section 103(e)(1) of title 23, United States Code.

(2) FEDERAL FINANCING RESPONSIBILITY—

(A) IN GENERAL.—Subject to subparagraph (B), the designation of Interstate Route 86 under subsection (a) shall not create increased Federal financial responsibility with respect to the designated Route.

(B) USE OF CERTAIN FUNDS.—A State may use funds available to the State under paragraphs (1) and (5)(B) of section 104(b) of title 23, United States Code, to eliminate substandard features, and to resurface, restore, rehabilitate, or reconstruct, any portion of the designated Route.

By Mr. LAUTENBERG:

S. 959. A bill to amend chapter 44 of title 18, United States Code, to prohibit the sale or transfer of a firearm to, or the possession if a firearm by, any person who is introxicated; to the Committee on the Judiciary.

THE NO GUNS FOR DRUNKS ACT OF 1997

Mr. LAUTENBERG. Mr. President, today I am introducing legislation to prohibit firearm sales to, and possession by, individuals who are obviously intoxicated.

Mr. President, a casual observer might think that this legislation is not necessary. Most Americans probably think that it is already illegal to sell a gun to a visibly intoxicated person. At the very least, the average citizen likely believes that it is only common sense that a gun dealer would never sell a gun to a drunk customer. Unfortunately, neither assumption is correct. Some gun dealers do sell guns and ammunition to visibly intoxicated persons. My bill will deter these sales, and punishes those who persist in making such dangerous sales.

Federal and state laws currently prohibit the sale of alcohol to obviously drunk individuals, to protect both the intoxicated individual and others. Likewise, it is against the law for intoxicated persons to operate a motor vehicle. Unbelievably, it is not against Federal law to sell a firearm to a visibly intoxicated individual, or for an intoxicated person to possess a firearm.

Worse still, Mr. President, some firearms dealers simply ignore common sense and sell guns and ammunition to any customers if they are clearly intoxicated. The absence of a legal prohibition on such sales allows these gun dealers to escape liability for the absolutely tragic, and foreseeable, consequences of such outrageous conduct.

For instance, Deborah Kitchen, a mother of five children, is now a quadriplegic after being shot by her ex-boyfriend with a rifle he had purchased from a Florida K mart. This man was so drunk when he purchased the rifle that the store clerk had to fill out the Federal firearm purchase form on his behalf. By his own admission, the ex-boyfriend had consumed a fifth of whisky and a case of beer the day he shot Ms. Kitchen. Nevertheless, the store sold him a .22 caliber bolt action rifle and a box of bullets. He then used these to paralyze Ms. Kitchen from the neck down.

Ms. Kitchen sued the K mart for it's outrageous conduct. A jury found the store liable of common law negligence, and returned a verdict in the amount of $12 million. A Florida appeals court overturned the jury's verdict, citing the lack of statutory prohibition on the sale of firearms to intoxicated persons.

Or, Mr. President, consider the case of Anthony Buczkowski, who suffered severe injury after being shot by a drunken ammunition purchaser. William McKay stumbled into a Michigan K mart store after a day-long drinking spree. Although obviously drunk and an admitted "mess", he was still sold a box of shotgun shells. He later used this ammunition to shoot Mr. Buczkowski. Although the trial court entered a judgment against K mart for the damages suffered by Mr. Buczkowski, the Michigan Supreme Court reversed, citing a lack of legal prohibition for such sales.

Unfortunately, common sense and a sense of civic obligation have not been sufficient enough to deter these sales. Perhaps the threat of criminal and civil liability will do the job. Mr. President, it is my fervent hope that this legislation, if enacted, will end any future sales of guns and ammunition to intoxicated persons.

Mr. President, I do not claim that most licensed gun dealers do or would sell guns or ammunition to intoxicated individuals. But the fact is that these sales do occur—and when they happen, the consequences can be devastating.

Mr. President, our country now understands that alcohol and automobiles are a deadly mix. Common sense, and heartbreaking experience, tells us that alcohol and guns also do not mix. It is time that our laws reflect this common sense notion.

I urge my colleagues to support this bill, and ask unanimous consent that a copy of the legislation be printed in the RECORD.

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

S. 959

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FIREARMS PROHIBITIONS RELATING TO INTOXICATED PERSONS.

Section 922(d) of title 18, United States Code, is amended—

(1) in subsection (d)—

(A) in paragraph (9), by striking the period at the end and inserting "; or"; and

(B) by adding at the end the following:

"(10) is intoxicated from the use of alcohol or a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).."; and

(2) in subsection (s)(3)(B)—

(A) in clause (vi), by striking "and" at the end;

(B) in clause (vii), by adding "and" at the end;

(C) by adding at the end the following:

"(viii) is not intoxicated from the use of alcohol or a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));".

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 960. A bill to amend the Atomic Energy Act of 1954 to authorize the Nuclear Regulatory Commission to direct that a portion of any civil penalty assessed by used to assist local communities; to the Committee on Environment and Public Works.

THE DISTRESSED COMMUNITIES SUPPORT ACT

Mr. DODD. Mr. President, I rise today to introduce legislation to help communities that suffer when nuclear power plants operate in an unsafe manner.

As most of my colleagues know, when the NRC discovers safety violations at a nuclear power plant, it is authorized to fine that facility for its transgressions, and these fines have been as high as $1.25 million. Under current law these fines go directly into the federal treasury, with no allowances being made for the communities that are home to these deficient nuclear power plants. When a nuclear facility is poorly operated, it often creates severe safety, environmental, and economic concerns for surrounding communities. Therefore, it is only fair that those communities should receive a portion of any NRC fines to go toward addressing matters of local concern. That is why I have introduced the Distressed Communities Support Act.

This legislation is simple and straightforward—it would allow 50 percent of the fines levied by the NRC against nuclear facilities to be funneled back to communities adversely affected by the plant's mismanagement.

The Distressed Communities Support Act would be extremely helpful to towns adjacent to nuclear plants which may be trying to develop special health, safety, and environmental programs. More important, this bill would help communities where the safety violations of the nuclear plant require that the plant be permanently shut down and decommissioned.

It is a fact that nuclear plants around the country are aging, making it increasingly difficult for many of them to meet safety standards and remain operational. Therefore, it is important that communities throughout the country have increased access to resources to deal with problems caused by negligent nuclear plants. In my home state of Connecticut, the time to help local communities is now.

The Connecticut Yankee nuclear plant in Haddam, Connecticut is in the beginning stages of decommissioning. In light of numerous safety violations, the Nuclear Regulatory Commission ordered the plant closed until these safety concerns were addressed. Then, in December of 1996, the owners of Connecticut Yankee decided to permanently close the facility. This decision came despite the fact that the license for the facility was set to expire in 2007. While the owners of Connecticut Yankee had chosen to permanently close the plant, the NRC continued its review of the safety violations, and fined Connecticut Yankee $650,000.

This early decommissioning of this plant will have a dramatic impact on Haddam and other surrounding towns. Connecticut Yankee was the area's largest employer and represented almost half of the tax base in the town of Haddam—a town of just under 7,500 residents. It employed more than 300 individuals. The sudden loss of tax revenue and jobs will have a devastating impact on this area, and the town may well be forced to raise local taxes and make cuts in town services, including the public schools.

In addition to the economic impact is the serious health and environmental impact of the way in which this facility was run. The people of Haddam and surrounding towns are facing difficult days as they contend with radioactive waste and related problems.

While local officials and residents are looking at innovative ways to rebuild their town's tax base, Haddam needs and clearly deserves financial assistance to get on the road to economic recovery. As we look for ways to provide financial assistance for this community, it only seems logical that some portion of the $650,000 in fines should go toward helping these people.

It is even more fitting that a town like Haddam should receive some federal assistance, because the federal government is partly responsible for this town's problems. NRC Commissioner Shirley Jackson has stated that the NRC failed to adequately regulate this plant to ensure safety, and stricter monitoring could have prevented a number of the problems that this plant has experienced. A recent GAO report released by Senator LIEBERMAN details the failings of the NRC in overseeing CT Yankee and other plants.

In most every case where a nuclear power plant's negligence prompts a fine by the NRC, the communities surrounding the plant will feel some negative repercussions. Therefore, I believe that a portion of these fines should be available to the affected communities.

While the Distressed Communities Support Act will not solve all of the problems of towns like Haddam, Connecticut, it is a fair and simple initiative that will provide relief to thousands of Americans.

I hope my colleagues will join me in supporting this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 960

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. USE OF PORTION OF CIVIL PENALTY ASSESSED BY THE NUCLEAR REGULATORY COMMISSION TO ASSIST LOCAL COMMUNITIES.

Section 234 of the Atomic Energy Act of 1954 (42 U.S.C. 2282) is amended by adding at the end the following:

"d. USE OF PORTION OF CIVIL PENALTY TO ASSIST LOCAL COMMUNITIES.—In imposing a civil penalty on a person, the Commission may direct the person to pay 50 percent of the amount of the civil penalty to local communities to protect local communities from the adverse economic and other affects of a violation of this Act or of decommissioning of a facility under this Act.".

By Mr. BOND:

S. 962. A bill to amend the Indian Gaming Regulatory Act with respect to certain gaming practices on tribal lands held in trust by the Secretary of the Interior, and for other purposes; to the Committee on Indian Affairs.

THE GAMBLING CLARIFICATION ACT OF 1997

Mr. BOND. Mr. President, I rise to introduce legislation to reform the Indian Gaming Regulatory Act. There is, as I speak, a tribe that is attempting to move into the State of Missouri to build a large gambling casino. I do not believe the tribe is entitled to build this casino under the Indian gaming law, but while Secretary Babbitt has indicated he would consider our views in making his decision, he may rule in favor of the tribe and those who favor gambling. The only way to reverse his decision would be for Congress to change the law and I plan to start that process now.

As my colleagues know, Mr. President, the Indian Gaming Regulatory Act became law in 1988 to address the rapid growth of gambling on Indian tribal lands. The Supreme Court affirmed the sovereignty of Indian tribes and upheld their right to conduct gambling on their tribal lands, holding that such a right could only be abrogated by an act of Congress. Recognizing that it is the policy of the majority of the States to prohibit or drastically regulate gambling and recognizing that many of the citizens of these States regard gambling as morally repugnant, Congress passed the Indian Gambling Regulatory Act.

The intent of the Indian Gaming Regulatory Act is to balance tribal sovereignty with a State's interest in regulating and controlling gambling. The bill attempted to accomplish this by bringing parties to a mutual table to work out an agreement for regulating gambling on reservations consistent with State policy. But the spirit of the legislation is one of containment, to limit gambling and control its growth. IGRA pursues the objective by narrowly restricting the circumstances by which gaming can be conducted on land acquired by tribes after the date of passage of the statute, October 17, 1988. However, like many pieces of regulation, unforeseen circumstances arise, loopholes open and language proves to be too vague or obtusely drafted. Such is the case with IGRA. My legislation does not attempt to reopen or rewrite the bill, but it does attempt to address some of the legislative voids that affect my State and others.

A first step for a tribe to conduct gaming on Indian land is to petition the Secretary of the Interior to have land taken into trust, this permits the tribe to benefit from the tax advantages afforded Indian tribes. While such trust petitions are under review by the Secretary, he is instructed to review the petition considering the best interests of both the tribe and the surrounding community. Furthermore, while such a petition is under review, elected officials have an opportunity to confront the Secretary with any concerns regarding gambling on that land or any objections that community members may hold regarding gambling. The statute, however, does not require the tribe to declare to the Secretary that land will be used for gambling. Furthermore, there is nothing in the statute that would prohibit a tribe from representing to the local community and the Secretary that land will be used for an unobjectionable purpose, only to begin using the land for gambling after it has been placed in trust.

My legislation will require a tribe that is planning to begin conducting gambling on newly acquired tribal land

to inform the Secretary during the trust application process that the land in question will in fact be used for gambling. Tribes with land held in trust that have not made such a declaration to the Secretary will be prohibited from using that land for gambling until such time as the tribe applies with the Secretary to have that land held in trust for the specific purpose of gambling. I believe this language will encourage the tribes to be open and upfront regarding their gambling plans for the trust land and is in the best interests of communities to be affected by gambling and in the best interests of the tribal-community relations. Communities that have serious concerns with the introduction of gambling to their neighborhoods will be given the opportunity to register their concerns with their elected officials and with the Secretary of the Interior. Tribes will also be disinclined to misrepresent their intentions or engage in any deceptive tactics to acquire land to begin or expand their gambling operations, which will go a long way to abating any suspicion between the tribes and the surrounding communities.

This language also clarifies the language regarding tribes in the State of Oklahoma, a State where there is no tribal reservations, attempting to spread their gaming operations into a neighboring State. I believe such a practice was not foreseen by the original statute and is inconsistent with the spirit of that statute. Specifically, my legislation will permit an Oklahoma tribe to expand their gaming operations into a neighboring state, but only when the tribe is located in that State and the gaming will be conducted within the boundaries of a former reservation. My State is confronted with a situation where a tribe has purchased land reaching across the State border into Missouri and the tribe is attempting to use that recently purchased land to claim residency in Missouri for the purpose of the statute. To me, that is exploiting the loose drafting of a statutory language. I do not believe the tribe is located in Missouri as contemplated by the statute and, therefore, is not entitled to bring a casino into this Missouri community over the overwhelming objections of Missourians. My bill will make this section clear.

Finally, the Indian Gaming statute authorizes tribes to conduct gaming on their reservations and other trust lands to the extent that gaming is permitted in that State. Such language is consistent with other Federal law by which tribes are subject to the criminal laws of the State but they are not subject to the regulations of the State. The Missouri constitution prohibits land-based gaming, gaming of this class may only be conducted on floating facilities on the Missouri River or Mississippi River. This prohibition was a popular referendum passed by the people of the State and the State legislature endorsed the objection to land-based gaming in a resolution. My legislation clearly states the Missouri Constitution contains a prohibition on land-based casinos and may not be interpreted in any way to permit class III land-based gaming. I might add that where a State has spoken so clearly—and the State constitution is certainly a clear statement of intent—I find it absurd that outsiders can just come in and do what the local people have said they oppose.

Mr. President, my proposals are not an exhaustive list, but the statute has caused a situation in my State that this legislation will address. I understand that the chairman of the Committee on Indian Affairs will be pursuing a larger package of amendments to address the problems in the gaming laws. I encourage him to do so, I look forward to working with him and I encourage my colleagues to join us in this effort. I want to conclude by reiterating that Federal Indian gambling legislation is intended to control and contain Indian gambling. Unfortunately the legislation is riddled with loopholes that out-of-State gambling interests can exploit through tribes like the Eastern Shawnee to operate gambling parlors. The people of southwest Missouri do not want any kind of casino gambling and I am going to do everything I can do legislatively and through the regulatory process to stop it.

I ask unanimous consent to include a copy of the bill and a brief question and answer in the RECORD.

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

S. 962

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 "Gaming Clarification Act of 1997".

SEC. 2. LAND BASED GAMING PROHIBITION OF THE CONSTITUTION OF THE STATE OF MISSOURI.

Section 20(b) of the Indian Gaming Regulatory Act (25 U.S.C. 2719(b)) is amended by adding at the end the following:

"(4) Section 39(e) of article III of the Constitution of the State of Missouri, which authorizes the legislature of the State to permit games of chance only upon the Missouri River or the Mississippi River, conducted on excursion gambling boats and floating facilities—

"(A) is a prohibitory measure; and

"(B) may not be construed to permit land-based class III gaming of any kind for any purpose.".

SEC. 3. APPLICABILITY OF RESTRICTIONS.

Section 20(b) of the Indian Gaming Regulatory Act (25 U.S.C. 2719(b)), as amended by section 2, is further amended by adding at the end the following:

"(5) Notwithstanding any other provision of this subsection, subsection (a) shall apply to any lands acquired by the Secretary in trust for the benefit of an Indian tribe after the date specified in that subsection, if, at the time of the taking of those lands into trust, those lands are located outside of the State in which the Indian tribe is located.".

SEC. 4. DECLARATION OF INTENT TO CONDUCT GAMING.

Section 20 of the Indian Gaming Regulatory Act (25 U.S.C. 4719) is amended by adding at the end the following:

"(e) DECLARATION OF INTENT TO CONDUCT GAMING.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of law, including any other provision of this Act, lands taken into trust for an Indian tribe after the date of enactment of the Gaming Clarification Act of 1997, shall not, for the purposes of this Act, be considered to be Indian lands upon which class II or class III gaming may be conducted in accordance with this Act.

"(2) EXCEPTION.—With respect to trust lands described in paragraph (1) of an Indian tribe, class II or class III gaming may be conducted on those lands in accordance with this Act if—

"(A) the Indian tribe submits an application to the Secretary of the Interior that contains an explicit declaration of the intent of the Indian tribe to conduct gaming on those lands; and

"(B) the Secretary of the Interior, in accordance with procedures established by the Secretary, including reviewing the applicability of subsection (b)(4), approves the declaration contained in the petition.".

QUESTIONS AND ANSWERS ABOUT SENATOR BOND'S INDIAN GAMBLING LEGISLATION

Why is this legislation needed?

The people of Southwest Missouri and their elected representatives have valiantly fought against the Eastern Shawnee tribes proposed casino project in Seneca. In addition, Creative Gaming International, the gambling company that is working with the tribe to establish the casino, has also purchased land near Branson where they intend to open another casino. At this time the tribe's application to have the Seneca land taken into federal trust is pending with the Secretary of the Interior. While Senator Bond has repeatedly asked Interior Secretary Babbitt to deny the tribe's petition, the outcome is uncertain. Loopholes in the Indian Gaming Regulatory Act (IGRA), the federal legislation that regulates Indian gambling, need to be closed to prevent tribes from locating in states where local citizens oppose gambling.

Will this legislation interfere with the legal action that the State has taken?

Senator Bond did not want to pursue any angle that would interfere with any other efforts taken at the state level to keep the casino out. The Attorney General of Missouri filed suit on August 19, 1996, but filed a motion to dismiss the case on November 18, 1996, which was granted on November 27, 1996. The fact that the case has been dropped means Bond's legislation will not interfere with state efforts to stop the casino.

Is this a fix for Missouri or a change in the gaming statute affecting all tribes?

Both. As the situation in Missouri illustrates, the federal statute intended to control the growth of this sort of gambling is vague, poorly drafted and full of loopholes. The Eastern Shawnee tribe is depending on this vague statute and its loopholes to move into Missouri and open a casino, activities that are directly contrary to the intent of

the statute. By focusing on several of the legal loopholes, I believe we can solve the problem facing the State of Missouri and other states whose citizens object to gambling facilities.

Can this legislation pass?

Absolutely. The Senate Committee on Indian Affairs is proceeding with legislation this session to correct many of the defects with the laws governing Indian gambling. Bond has met with the committee chairman, Sen. Ben Nighthorse Campbell, and he is aware of the situation in Missouri. Sen. Campbell has several concerns with the law that are similar to Missouri's and has pledged his cooperation to correct this problem.

Congress sometimes moves slowly; does Bond have an alternative plan?

Through his membership on the Senate Appropriations Committee, Bond is well-situated to add language to the annual Department of Interior Appropriations bill which would prevent the Secretary of the Interior from placing this land into trust.

Hasn't the Eastern Shawnee tribe tried to assure local citizens that they no longer intend to develop a casino site on the Seneca land?

Talk is cheap. The tribe has not amended their petition application with the Department of Interior to reflect the fact that they no longer intend to open a casino. Also, Creative Gaming International, the New Jersey company working with the tribe, noted in a press release just last Friday that they were continuing to pursue "Native American gaming in southwest Missouri."

By Mr. CHAFEE (for himself, Mr. GRAHAM, Mrs. BOXER, Mr. BENNETT, Mr. HATCH, and Mr. MOYNIHAN):

S. 963. A bill to establish a transportation credit assistance pilot program, and for other purposes; to the Committee on Environment and Public Works.

THE TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT OF 1997

Mr. CHAFEE. Mr. President, today I am introducing the Transportation Infrastructure Finance and Innovation Act of 1997,—or, TIFIA. The purpose of the bill is to bridge the gap between the Nation's substantial infrastructure needs and limited Federal funds. I am pleased to report that Senators GRAHAM of Florida, BOXER, HATCH, BENNETT, and MOYNIHAN have joined me in cosponsoring this important measure.

I think we can all agree that there is a clear shortfall of public funding to meet the Nation's transportation needs. Our effort to balance the Federal budget only makes the challenge of meeting these critical needs all the more difficult.

The goals of our bill are to offer the sponsors of major transportation projects a new tool to make the most of limited Federal resources, stimulate additional investment in our Nation's infrastructure, and encourage greater private sector participation in meeting our transportation needs.

TIFIA establishes a new Federal credit program for surface transportation. It will provide $800 million in credit assistance over six years to public and private entities, with the purpose of leveraging as much as $16 billion in Federal funds for major transportation projects. In turn, this Federal investment could help leverage total investment in infrastructure from other public and private entities of $40 to $50 billion. Eligible forms of credit assistance available through our proposal include loans, loan guarantees, and lines of credit.

WHAT KINDS OF PROJECTS WOULD QUALIFY FOR THIS ASSISTANCE?

National significance. Projects participating in this program must be determined by the Secretary of Transportation to be "regionally or nationally" significant. Projects must enhance the national transportation system, reduce traffic congestion, and protect the environment.

Large projects. This program is targeted at large projects that are difficult, if not impossible, to fund through traditional means such as using a State's annual allocation in the Federal highway program. Projects participating in the program must cost at least 100 million dollars, or 50 percent of a State's most recent annual apportionment of federal-aid highway funds, whichever is less.

Eligibility. The project must be a surface transportation facility eligible for federal assistance—i.e., a highway, transit, passenger rail, or intermodal facility.

State and local support. The project must be included in the State transportation plan and be in the approved State Transportation Improvement Program.

User charges. Projects must be self-financing through user fees or other non-federal revenue sources.

WHY IS THIS PROGRAM NEEDED IN ADDITION TO STATE INFRASTRUCTURE BANKS?

The new credit assistance program will supplement existing Federal programs, such as the State Infrastructure Banks or SIB's. Large projects of national importance are simply too big to be financed by SIB's. As start-up financial institutions, SIB's are limited in the amount of assistance they can provide in the near term. The credit assistance available through TIFIA will help fill this gap in the near term.

WILL THE FEDERAL GOVERNMENT SHOULDER ALL OF THE RISK FOR THESE PROJECTS?

No, under TIFIA, the Federal Government will participate in the new credit assistance program as a minor investor. Our bill limits Federal participation to 33 percent of total project costs.

I want to emphasize that the new credit assistance program established in TIFIA is a limited, six-year pilot program. The ultimate objective of the program is to phase out Federal participation in these large projects and allow private capital investment to take on this function. It is time to try a new approach and see how it works.

The benefits of private sector involvement in this area are enormous. Giving the private sector a larger role will reduce project costs and advance construction schedules. It also will attract much needed private capital, and more equitably distribute risks between public and private sectors.

Now more than ever, we must preserve the strengths of the transportation system we have in place. Yet, we also must anticipate the future, addressing new problems with innovative solutions. This new credit program is just the sort of creative mechanism we should be advancing.

It is my hope that the new credit assistance program in the bill I introduce today will be included as part of the reauthorization of the Intermodal Surface Transportation Efficiency Act. As I have said before, the ISTEA reauthorization process must reach out for ideas on creative ways, like this one, to finance our infrastructure needs. The combination of our nation's transportation infrastructure needs and the significant fiscal constraints at all levels of government make this effort imperative. This measure has the endorsement of the American Road and Transportation Builders Association; PSA, the Bond Market Trade Association; the Internationals Union of Operating Engineers; the Building and Construction Trades Department; and Project America. I urge my colleagues to give this sensible measure their support.

Mr. President, I ask unanimous consent that the text and description of the bill be included in the RECORD.

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 "Transportation Infrastructure Finance and Innovation Act of 1997".

SEC. 2. FINDINGS.

Congress finds that—

(1) a well-developed system of transportation infrastructure is critical to the economic well-being, health, and welfare of the people of the United States;

(2) traditional public funding techniques such as grant programs are unable to keep pace with the infrastructure investment needs of the United States because of budgetary constraints at the Federal, State, and local levels of government;

(3) major transportation infrastructure facilities that address critical national needs, such as intermodal facilities, border crossings, and multistate trade corridors, are of a scale that exceeds the capacity of Federal and State assistance programs in effect on the date of enactment of this Act;

(4) new investment capital can be attracted to infrastructure projects that are capable of generating their own revenue streams through user charges or other dedicated funding sources; and

(5) a Federal credit program for projects of national significance can complement existing funding resources by filling market gaps, thereby leveraging substantial private co-investment.

SEC. 3. DEFINITIONS.

In this Act:

(1) ELIGIBLE PROJECT COSTS.—The term "eligible project costs" means amounts substantially all of which are paid by, or for the account of, an obligor in connection with a project, including the cost of—

(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

(B) construction, reconstruction, rehabilitation, replacement, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment; and

(C) interest during construction, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction.

(2) FEDERAL CREDIT INSTRUMENT.—The term "Federal credit instrument" means a secured loan, loan guarantee, or line of credit authorized to be made available under this Act with respect to a project.

(3) LENDER.—The term "lender" means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)), including—

(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986) that is a qualified institutional buyer; and

(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

(4) LINE OF CREDIT.—The term "line of credit" means an agreement entered into by the Secretary with an obligor under section 6 to provide a direct loan at a future date upon the occurrence of certain events.

(5) LOAN GUARANTEE.—The term "loan guarantee" means any guarantee or other pledge by the Secretary to pay all or part of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

(6) LOCAL SERVICER.—The term "local servicer" means—

(A) a State infrastructure bank established under title 23, United States Code; or

(B) a State or local government or any agency of a State or local government that is responsible for servicing a Federal credit instrument on behalf of the Secretary.

(7) OBLIGOR.—The term "obligor" means a party primarily liable for payment of the principal of or interest on a Federal credit instrument, which party may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

(8) PROJECT.—The term "project" means any surface transportation facility eligible for Federal assistance under title 23 or chapter 53 of title 49, United States Code.

(9) PROJECT OBLIGATION.—The term "project obligation" means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of a project, other than a Federal credit instrument.

(10) SECURED LOAN.—The term "secured loan" means a direct loan or other debt obligation issued by an obligor and funded by the Secretary in connection with the financing of a project under section 5.

(11) STATE.—The term "State" has the meaning given the term in section 101(a) of title 23, United States Code.

(12) SUBSTANTIAL COMPLETION.—The term "substantial completion" means the opening of a project to vehicular or passenger traffic.

SEC. 4. DETERMINATION OF ELIGIBILITY AND PROJECT SELECTION.

(a) ELIGIBILITY.—To be eligible to receive financial assistance under this Act, a project shall meet the following criteria:

(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project—

(A) shall be included in the State transportation plan required under section 135 of title 23, United States Code; and

(B) at such time as an agreement to make available a Federal credit instrument is entered into under this Act, shall be included in the approved State transportation improvement program required under section 134 of that title.

(2) APPLICATION.—A State, a local servicer identified under section 7(a), or the entity undertaking the project shall submit a project application to the Secretary.

(3) ELIGIBLE PROJECT COSTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), to be eligible for assistance under this Act, a project shall have eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

(i) $100,000,000; or

(ii) 50 percent of the amount of Federal-aid highway funds apportioned for the most recently-completed fiscal year under title 23, United States Code, to the State in which the project is located.

(B) INTELLIGENT TRANSPORTATION SYSTEM PROJECTS.—In the case of a project involving the installation of an intelligent transportation system, eligible project costs shall be reasonably anticipated to equal or exceed $30,000,000.

(4) DEDICATED REVENUE SOURCES.—Project financing shall be repayable in whole or in part by user charges or other dedicated revenue sources.

(5) PUBLIC SPONSORSHIP OF PRIVATE ENTITIES.—In the case of a project that is undertaken by an entity that is not a State or local government or an agency or instrumentality of a State or local government, the project that the entity is undertaking shall be publicly sponsored as provided in paragraphs (1) and (2).

(b) SELECTION AMONG ELIGIBLE PROJECTS.—

(1) ESTABLISHMENT.—The Secretary shall establish criteria for selecting among projects that meet the eligibility criteria specified in subsection (a).

(2) INCLUDED CRITERIA.—The selection criteria shall include the following:

(A) The extent to which the project is nationally or regionally significant, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system. Specific factors determining national significance shall include the extent to which the project—

(i) is part of the National Highway System and related connectors as specified in section 103(b) of title 23, United States Code;

(ii) promotes regional, interstate, or international commerce;

(iii) enables United States manufacturers to deliver their goods to domestic and foreign markets in a more timely, cost-effective manner;

(iv) stimulates new economic activity and job creation;

(v) reduces traffic congestion, thereby increasing workforce productivity; and

(vi) protects and enhances the environment, including by enhancing air quality through the reduction of congestion and decreased fuel and oil consumption.

(B) The creditworthiness of the project, including a determination by the Secretary that any financing for the project has appropriate security features, such as a rate covenant, to ensure repayment. The Secretary shall require each project applicant to provide a preliminary rating opinion letter from a nationally recognized bond rating agency.

(C) The extent to which assistance under this Act would foster innovative public-private partnerships and attract private debt or equity investment.

(D) The likelihood that assistance under this Act would enable the project to proceed at an earlier date than the project would otherwise be able to proceed.

(E) The extent to which the project uses new technologies, including intelligent transportation systems, that enhance the efficiency of the project.

(F) The amount of budget authority required to fund the Federal credit instrument made available under this Act.

(c) FEDERAL REQUIREMENTS.—The following provisions of law shall apply to funds made available under this Act and projects assisted with the funds:

(1) Section 113 of title 23, United States Code.

(2) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(3) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(4) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(5) Section 5333 of title 49, United States Code.

SEC. 5. SECURED LOANS.

(a) IN GENERAL.—

(1) AGREEMENTS.—Subject to paragraphs (2) and (3), the Secretary may enter into agreements with 1 or more obligors to make secured loans, the proceeds of which shall be used—

(A) to finance eligible project costs; or

(B) to refinance interim construction financing of eligible project costs;

of any project selected under section 4.

(2) LIMITATION ON REFINANCING OF INTERIM CONSTRUCTION FINANCING.—A loan under paragraph (1) shall not refinance interim construction financing under paragraph (1)(B) later than 1 year after the date of substantial completion of the project.

(3) AUTHORIZATION PERIOD.—The Secretary may enter into a loan agreement during any of fiscal years 1998 through 2003.

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A secured loan under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(2) MAXIMUM AMOUNT.—The amount of the secured loan shall not exceed 33 percent of the reasonably anticipated eligible project costs.

(3) PAYMENT.—The secured loan—

(A) shall be payable, in whole or in part, from revenues generated by any rate covenant, coverage requirement, or similar security feature supporting the project obligations or from a dedicated revenue stream; and

(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

(4) INTEREST RATE.—The interest rate on the secured loan shall be equal to the yield on marketable United States Treasury securities of a similar maturity to the maturity of the secured loan on the date of execution of the loan agreement.

(5) MATURITY DATE.—The final maturity date of the secured loan shall be not later than 35 years after the date of substantial completion of the project.

(6) NONSUBORDINATION.—The secured loan shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(7) FEES.—The Secretary may establish fees at a level sufficient to cover the costs to the Federal Government of making a secured loan under this section.

(c) REPAYMENT.—

(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each secured loan under this section based on the projected cash flow from project revenues and other repayment sources.

(2) COMMENCEMENT.—Scheduled loan repayments of principal or interest on a secured loan under this section shall commence not later than 5 years after the date of substantial completion of the project.

(3) SOURCES OF REPAYMENT FUNDS.—The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.

(4) DEFERRED PAYMENTS.—

(A) AUTHORIZATION.—If, at any time during the 10 years after the date of substantial completion of the project, the project is unable to generate sufficient revenues to pay scheduled principal and interest on the secured loan, the Secretary may, pursuant to established criteria for the project agreed to by the entity undertaking the project and the Secretary, allow the obligor to add unpaid principal and interest to the outstanding balance of the secured loan.

(B) INTEREST.—Any payment deferred under subparagraph (A) shall—

(i) continue to accrue interest in accordance with subsection (b)(4) until fully repaid; and

(ii) be scheduled to be amortized over the remaining term of the loan beginning not later than 10 years after the date of substantial completion of the project in accordance with paragraph (1).

(5) PREPAYMENT.—

(A) USE OF EXCESS REVENUES.—Any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and secured loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations may be applied annually to prepay the secured loan without penalty.

(B) USE OF PROCEEDS OF REFINANCING.—The secured loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

(d) SALE OF SECURED LOANS.—As soon as practicable after substantial completion of a project, the Secretary shall sell to another entity or reoffer into the capital markets a secured loan for the project if the Secretary determines that the sale or reoffering can be made on favorable terms.

(e) LOAN GUARANTEES.—

(1) IN GENERAL.—The Secretary may provide a loan guarantee to a lender in lieu of making a secured loan if the Secretary determines that the budgetary cost of the loan guarantee is substantially the same as that of a secured loan.

(2) TERMS.—The terms of a guaranteed loan shall be consistent with the terms set forth in this section for a secured loan, except that the rate on the guaranteed loan and any prepayment features shall be negotiated between the obligor and the lender, with the consent of the Secretary.

SEC. 6. LINES OF CREDIT.

(a) IN GENERAL.—

(1) AGREEMENTS.—The Secretary may enter into agreements to make available lines of credit to 1 or more obligors in the form of direct loans to be made by the Secretary at future dates on the occurrence of certain events for any project selected under section 4.

(2) USE OF PROCEEDS.—The proceeds of a line of credit made available under this section shall be available to pay debt service on project obligations issued to finance eligible project costs, extraordinary repair and replacement costs, operation and maintenance expenses, and costs associated with unexpected Federal or State environmental restrictions.

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A line of credit under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(2) MAXIMUM AMOUNTS.—

(A) TOTAL AMOUNT.—The total amount of the line of credit shall not exceed 33 percent of the reasonably anticipated eligible project costs.

(B) ONE-YEAR DRAWS.—The amount drawn in any 1 year shall not exceed 20 percent of the total amount of the line of credit.

(3) DRAWS.—Any draw on the line of credit shall represent a direct loan and shall be made only if net revenues from the project (including capitalized interest, any debt service reserve fund, and any other available reserve) are insufficient to pay debt service on project obligations.

(4) INTEREST RATE.—The interest rate on a direct loan resulting from a draw on the line of credit shall be equal to the yield on 30-year marketable United States Treasury securities as of the date on which the line of credit is obligated.

(5) SECURITY.—The line of credit—

(A) shall be made available only in connection with a project obligation secured, in whole or in part, by a rate covenant, coverage requirement, or similar security feature or from a dedicated revenue stream; and

(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

(6) PERIOD OF AVAILABILITY.—The line of credit shall be available during the period beginning on the date of substantial completion of the project and ending not later than 10 years after that date.

(7) RIGHTS OF THIRD PARTY CREDITORS.—

(A) AGAINST FEDERAL GOVERNMENT.—A third party creditor of the obligor shall not have any right against the Federal Government with respect to any draw on the line of credit.

(B) ASSIGNMENT.—An obligor may assign the line of credit to 1 or more lenders or to a trustee on the lenders' behalf.

(8) NONSUBORDINATION.—A direct loan under this section shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(9) FEES.—The Secretary may establish fees at a level sufficient to cover the costs to the Federal Government of providing a line of credit under this section.

(10) RELATIONSHIP TO OTHER CREDIT INSTRUMENTS.—A line of credit under this section shall not be issued for a project with respect to which another Federal credit instrument under this Act is made available.

(c) REPAYMENT.—

(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each direct loan under this section based on the projected cash flow from project revenues and other repayment sources.

(2) TIMING.—All scheduled repayments of principal or interest on a direct loan under this section shall commence not later than 5 years after substantial completion of the project and be fully repaid, with interest, by the date that is 20 years after the end of the period of availability specified in subsection (b)(6).

(3) SOURCES OF REPAYMENT FUNDS.—The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.

SEC. 7. PROJECT SERVICING.

(a) REQUIREMENT.—The State in which a project that receives financial assistance under this Act is located may identify a local servicer to assist the Secretary in servicing the Federal credit instrument made available under this Act.

(b) AGENCY; FEES.—If a State identifies a local servicer under subsection (a), the local servicer—

(1) shall act as the agent for the Secretary; and

(2) may receive a servicing fee, subject to approval by the Secretary.

(c) LIABILITY.—A local servicer identified under subsection (a) shall not be liable for the obligations of the obligor to the Secretary or any lender.

(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.

SEC. 8. OFFICE OF INFRASTRUCTURE FINANCE.

(a) DUTIES OF THE SECRETARY.—Section 301 of title 49, United States Code, is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(9) develop and coordinate Federal policy on financing transportation infrastructure, including the provision of direct Federal credit assistance and other techniques used to leverage Federal transportation funds.".

(b) OFFICE OF INFRASTRUCTURE FINANCE.—

(1) IN GENERAL.—Chapter 1 of title 49, United States Code, is amended by adding at the end the following:

"§ 113. Office of Infrastructure Finance

"(a) ESTABLISHMENT.—The Secretary of Transportation shall establish within the Office of the Secretary an Office of Infrastructure Finance.

"(b) DIRECTOR.—The Office shall be headed by a Director who shall be appointed by the Secretary not later than 180 days after the date of enactment of this section.

"(c) FUNCTIONS.—The Director shall be responsible for—

"(1) carrying out the responsibilities of the Secretary described in section 301(9);

"(2) carrying out research on financing transportation infrastructure, including educational programs and other initiatives to support Federal, State, and local government efforts; and

"(3) providing technical assistance to Federal, State, and local government agencies and officials to facilitate the development and use of alternative techniques for financing transportation infrastructure.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 49, United States Code, is amended by adding at the end the following:

"113. Office of Infrastructure Finance.".

SEC. 9. STATE AND LOCAL PERMITS.

The provision of financial assistance under this Act with respect to a project shall not—

(1) relieve any recipient of the assistance of any obligation to obtain any required State or local permit or approval with respect to the project;

(2) limit the right of any unit of State or local government to approve or regulate any rate of return on private equity invested in the project; or

(3) otherwise supersede any State or local law (including any regulation) applicable to the construction or operation of the project.

SEC. 10. REGULATIONS.

The Secretary may issue such regulations as the Secretary determines appropriate to carry out this Act and the amendments made by this Act.

SEC. 11. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this Act—

(A) $40,000,000 for fiscal year 1998;

(B) $60,000,000 for fiscal year 1999;

(C) $100,000,000 for fiscal year 2000;

(D) $150,000,000 for fiscal year 2001;

(E) $200,000,000 for fiscal year 2002; and

(F) $250,000,000 for fiscal year 2003.

(2) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until expended.

(b) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, approval by the Secretary of a Federal credit instrument that uses funds made available under this Act shall be deemed to be acceptance by the United States of a contractual obligation to fund the Federal credit instrument.

(c) LIMITATIONS ON CREDIT AMOUNTS.—For each of fiscal years 1998 through 2003, principal amounts of Federal credit instruments made available under this Act shall be limited to the amounts specified in the following table:

Fiscal year:	Maximum amount of credit:
1998	$800,000,000
1999	$1,200,000,000
2000	$2,000,000,000
2001	$3,000,000,000
2002	$4,000,000,000
2003	$5,000,000,000.

SEC. 12. REPORT TO CONGRESS.

Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to Congress a report summarizing the financial performance of the projects that are receiving, or have received, assistance under this Act, including a recommendation as to whether the objectives of this Act are best served—

(1) by continuing the program under the authority of the Secretary;

(2) by establishing a Government corporation or Government-sponsored enterprise to administer the program; or

(3) by phasing out the program and relying on the capital markets to fund the types of infrastructure investments assisted by this Act without Federal participation.

THE TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT OF 1997

SEC. 1. SHORT TITLE; TABLE OF CONTENTS

This section identifies a new Federal credit assistance program for surface transportation facilities as the Transportation Infrastructure Finance and Innovation Act of 1997.

SEC. 2. FINDINGS

This section recites Congressional findings that a comprehensive surface transportation infrastructure system is crucial to the economic health of the Nation. Traditional methods of funding transportation projects, including Federal grants, are insufficient to meet the Nation's infrastructure investment needs. The funding gap is particularly acute for large projects of National significance, due to their scale and complexity. A new Federal credit program for transportation will help address these projects' special needs by supplementing existing Federal programs and leveraging private debt and equity capital.

This bill is designed to provide an initial infusion of Federal credit assistance over the next six years to facilitate the development of large, capital-intensive infrastructure facilities through public-private partnerships, consisting of a State or local governmental project sponsor and one of more private sector firms involved in the design, construction or operation of the facility. The Federal credit program is oriented to those projects which have the potential to be self-supporting from user charges or other non-Federal dedicated funding sources. The program is structured to fill to specific market gaps through Federal participation as a minority investor. The ultimate objective is to phase out Federal participation and encourage private capital investment to fulfill this function.

The program should result in additional surface transportation facilities being developed more quickly and at a lower cost than would be the case under conventional public procurement, funding and ownership.

SEC. 3. DEFINITIONS

This section sets forth the definitions for terms used in this title. The key terms are listed below:

A "Project" is defined as any surface transportation facility eligible under the provisions of title 23 as well as chapter 53 of title 49, United States Code. Permitted projects would include free or tolled highways, bridges and tunnels; mass transportation facilities and vehicles; commuter and inter-city rail passenger facilities and vehicles; intermodal passenger terminals; and intermodal freight and port facilities (excluding privately-owned rail rolling stock).

The term "Eligible Project Costs" is defined to include those costs of a capital nature incurred by a sponsor in connection with developing an infrastructure project. These costs fall into three categories: (I) preconstruction costs relating to planning, design, and securing governmental permits and approvals; (ii) hard costs relating to the design and construction (or rehabilitation) of a project; and (iii) related soft costs associated with the financing of the project, such as interest during construction, reserve accounts, and issuance expenses. It would not include operation or maintenance costs.

An "Obligor" is defined as any entity (whether a State or local governmental unit or agency, a private entity authorized by such governmental unit to develop a project, or a public-private partnership) that is a borrower involving a secured loan, loan guarantee, or line of credit under this title.

A "Local Servicer" is defined as a state infrastructure bank or other designated State or local governmental agency which may service the credit program on behalf of the Department of Transportation within that State.

"Substantial Completion" is defined as the date when a project opens to vehicular, passenger, or freight traffic.

Other definitions specify types of lenders, project obligations, and Federal credit instruments—including secured loans, loan guarantees, and lines of credit.

SEC. 4. DETERMINATION OF ELIGIBILITY AND PROJECT SELECTION

This section defines the threshold eligibility criteria for a project to receive Federal credit assistance and outlines the basis upon which the Secretary will select among potential candidates. The Secretary's determination of a project's eligibility will be based on both quantitative and qualitative factors.

To ensure that the project enjoys both State and local support the project must be included in the State's plan and program and, if the project is in a metropolitan area, it must satisfy all metropolitan planning requirements of 23 U.S.C. 134. The State or State-designated entity will be responsible for forwarding the project application to the Secretary.

In terms of size, the project must be reasonably anticipated to cost at least $100 million or an amount equal to 50 percent of a State's annual Federal-aid highway apportionments, whichever is less. This two-fold test is designed to allow small and rural States to accommodate projects otherwise too large for their transportation programs. Based on FY 1997 apportionments, eighteen States could qualify projects costing less than $100 million, with the minimum allocation equaling approximately $40 million.

An exception to this size threshold would be projects involving the installation of intelligent transportation systems, which would need to cost at least $30 million.

In addition, a project must be supported at least in part by user charges, to encourage the development of new revenue streams and the participation by the private sector.

Project applicants meeting the threshold eligibility criteria then will be evaluated by the Secretary based on a number of factors. Of prime importance, the project must be deemed by the Secretary to be "nationally or regionally significant" in terms of facilitating the movement of people and goods in a more efficient and cost-effective manner, resulting in significant economic benefits. Among the other factors which the Secretary will take into account are: the likelihood that the Federal assistance will enable the project to proceed at an earlier date; the degree to which the project leverages non-Federal resources, including private sector capital; and its overall creditworthiness.

This section also provides that all requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.), and section 5333 of title 49 and section 113 of title 23, United States Code (relating to wage protections), shall apply to funds made available under this title and projects assisted with such funds.

SEC. 5. SECURED LOANS

This section establishes a temporary lending program whereby the Secretary may

make direct Federal loans in fiscal years 1998 through 2003 to demonstrate to the capital markets the viability of making transportation infrastructure investments where returns depend on excess project cash flows. It is intended to help the capital markets develop the capability to replace the role of the Federal government by the end of the authorization period in helping finance the costs of large projects of national significance. The loans are contemplated to be made up front as combined construction and permanent financing, although the title allows the Federal loan to be made up to a year after construction is completed for those projects that have arranged interim construction financing.

A secured loan could be in an amount up to 33 percent of the reasonably anticipated cost of a project, and could have a final maturity as long as 35 years after the date the project opens (substantial completion). The interest rate would be established at the time the loan agreement was executed, and would equal the prevailing yield on comparable term U.S. Treasury bonds. Loan repayments would be required to start within five years after the date of substantial completion and are payable from user fees or dedicated revenue streams.

The terms and conditions of each loan would be negotiated between the Secretary and the borrower, and would allow a lien on project revenue subject to a lien securing other project debt. In the event of default and bankruptcy, insolvency or liquidation of the obligor, the loan is not subordinated to the claims of any other lender. A key feature would allow the Secretary, for a period up to 10 years following project completion, to defer principal and interest payments should project revenues prove insufficient. Any deferred payments during this "ramp-up" period would accrue with interest, and this amount will be amortized over the remaining term of the loan. Such a flexible payment schedule (allowing for deferrals during the project's ramp-up phase) should assist the project in obtaining an "investment grade" bond rating (that is, BBB or higher) on its capital markets indebtedness. Excess revenues or proceeds of refinancing from non-Federal funding sources could be used to prepay the secured loans without penalty.

The Secretary is to determine whether a secured loan can be sold to another entity or reoffered into the capital markets on favorable terms as soon as possible after substantial completion.

In lieu of funding secured loans directly, the Secretary may provide loan guarantees to lenders, provided the budgetary cost based on credit-worthiness is similar. This feature is designed to attract voluntary investment from pension funds and other institutional investors. Guaranteed loans would not be permitted to be issued on a tax-exempt basis.

SEC. 6. LINES OF CREDIT

This section authorizes the Secretary to enter into agreements to make direct loans to projects at future dates upon certain conditions occurring. Such agreement would be in the form of a standby line of credit.

In contrast to a secured loan provided under section 5, the line of credit would not be for the purpose of funding construction costs as part of the project's initial capitalization. Rather, the line of credit would be drawn upon if needed to pay debt service and other project expenses (such as extraordinary repair and replacement, or operation and maintenance) during the critical "ramp-up" period after the facility has opened. The line is designed to facilitate project sponsors' access private capital by assisting them in obtaining investment grade ratings on their debt.

It is intended that the financial institutions such as bond insurers will develop the capability to replace this temporary role of the Federal government in providing lines of credit for large transportation infrastructure projects by the end of the authorization period.

The secured loans and the line of credit are intended to address projects with different financial needs based on their pro-forma capital structures. The secured loans will be most attractive to those projects that must demonstrate to private lenders or capital markets debt investors that there is adequate coverage "going in" based on maximum annual debt service, and where the cost of the Federal loan compares favorably with the cost of other borrowing alternatives. A line of credit is more likely to be used by projects that are able to issue capital markets debt on favorable terms with an ascending debt service pattern, but need to demonstrate access to contingent sources of capital to support such debt service in the event revenues fail to grow as quickly as annual payments of principal and interest.

This section sets forth various limitations on the availability of draws on a line of credit. A draw on the line will represent a direct loan. A line of credit could only be drawn upon after the project had used up other available revenues and reserves, and it could only be accessed for a period of up to 10 years after a project had been substantially completed.

The total amount of draws could not exceed 33 percent of reasonably anticipated eligible project costs, as is the case with secured loans. The borrower could draw down up to 20 percent of the line of credit each year (i.e., the entire amount could be drawn down during the first five years of a ten year credit line, if needed.)

Any draws would need to be fully repaid, with interest, within 20 years of the end of the 10-year availability period following substantial completion of the project. The interest rate for any draw would be established at the time the line of credit agreement was entered into, at a rate equal to the then-prevailing yield on 30 year U.S. Treasury bonds. The repayment of the draw would be secured in a manner similar to the secured loan.

To avoid "double-dipping," a borrower could not combine a line of credit with a secured loan for any given project.

SEC. 7. PROJECT SERVICING

The program will use State or local governmental agencies to assist the Secretary in servicing each credit instrument. The State may designate its State infrastructure bank or some other public agency to serve as the local servicing agent for the credit instrument.

The local servicing agent would function as a financing conduit, much like a mortgage company, and with the Secretary's approval it could charge a servicing fee. It would not be financially liable in any way for the credit provided; rather, it would assist in the disbursement and collection of funds. It is required that the local servicing agent set up a separate account from its other activities to receive the Federal credit proceeds for disbursal to the borrower, and to receive loan repayments for remittance to the Secretary.

SEC. 8. OFFICE OF INFRASTRUCTURE FINANCE

The Secretary will establish an Office of Infrastructure Finance to manage the credit program and provide related technical and educational assistance.

Program guidelines will be established by the Secretary in order to ensure the program operates prudently and efficiently, including requiring obligors to provide annual audits.

SEC. 9. STATE AND LOCAL PERMITS

This section states that this title in no way supersedes any existing State or local laws, regulations, or project approval requirements.

SEC. 10. FUNDING

This section provides contract authority to fund the budgetary or subsidy costs of the Federal credit instruments provided. (Subsidy costs, which are defined in and required to be funded by budget authority under the Federal Credit Reform Act of 1990, represent the present value of expected cash flows for each credit instrument, taking into account the default risk as well as any interest rate subsidy. Since this title requires all secured loans to be made at rate equal to the comparable term U.S. Treasury rate, there will be no interest subsidy element.) The contract authority would remain available until expended, and would be paid out of the highway account of the Highway Trust Fund.

The section also establishes a limit each year on the maximum amount of credit assistance that may be offered under this title.

Fiscal year	Budget (contract) authority	Nominal credit limit
1998	$40,000,000	$800,000,000
1999	$60,000,000	$1,200,000,000
2000	$100,000,000	$2,000,000,000
2001	$150,000,000	$3,000,000,000
2002	$200,000,000	$4,000,000,000
2003	$250,000,000	$5,000,000,000

SEC. 110. REPORT TO CONGRESS

This section requires the Secretary to summarize the activities and results of the assistance programs and mechanisms provided under this title, including whether they are succeeding in encourage the private capital markets to invest in large transportation infrastructure projects. The report shall be made within four years of enactment of the title and include recommendations on whether the programs should be continued or phased out by the end of the authorization period as planned.

Mrs. BOXER. Mr. President, I would like to ask the distinguished Senator from Rhode Island, Senator CHAFEE, who is the chairman of the Senate Committee on Environment and Public Works, on which I am pleased to serve, a question about his proposed Transportation Finance and Innovation Act.

Mr. CHAFEE. I will be pleased to yield to a question from my California colleague.

Mrs. BOXER. I thank the Senator. I also want to thank the Chairman for his support for a number of critical transportation projects in California and in particular, the Alameda Transportation Corridor project. As the Chairman knows, he supported my efforts to designate the Corridor a High Priority Corridor in the National Highway System Designation Act of 1995. That in turn led President Clinton to include in his fiscal year 1997 budget request funding to support a $400 million direct Federal loan for the project, which was approved by Congress last year.

As Senator CHAFEE, knows, California has major need for transportation investment due in large part to the tremendous increase in international trade flowing through the state. While this trade has helped bring California out of the economic recession earlier this decade, it has also placed tremendous strain on our infrastructure. No where is this more apparent than at our border with Mexico. Unfortunately, after the implementation of the North American Free Trade Agreement, the Federal Government provided no special assistance to the border States to deal with the expected doubling of commercial truck traffic through these border trade corridors. As the Senator knows from his recent tour of the area, narrow rural highways or city streets are being expected to carry heavy, continuous commercial truck traffic.

In response to this need, I introduced the Border Infrastructure, Safety and Congestion Relief Act. A section of my bill would provide Federal funds to state infrastructure banks or authorities to finance border improvement projects. We know that some projects could be financed more efficiently under partnerships with the private sector. I understand Senator CHAFEE's bill on Transportation Finance and Innovation would provide an infusion of Federal credit assistance over the next six years to help construct large, high-cost infrastructure facilities. My question for the Chairman is this, would border crossing facilities and trade corridors be eligible for this type of Federal financing under your bill?

Mr. CHAFEE. The Senator is correct. Through the efforts of Senator BOXER, I have become aware of the need for border infrastructure investment and of her own legislation which has been referred to our committee. The Transportation Finance and Innovation Act embraces the innovative finance objectives of the Boxer bill. Border crossing facilities and multi-State trade corridors are clearly eligible and the selection criteria specifically includes those projects which promote international commerce. This bill will enable United States manufacturers to deliver their goods to domestic and foreign markets in a more timely, and cost-effective manner.

Mrs. BOXER. I thank the Chairman. I am proud to be an original cosponsor of the Transportation Finance and Innovation Act. Several projects in California could benefit potentially from this legislation, not only in the border region but with the Alameda Corridor project in Los Angeles and the Bay Area Rapid Transit extension to San Francisco International Airport. I appreciate Senator CHAFEE's hard work and vision to present new innovations and ideas on financing transportation investments needed to keep our economy competitive in the world.

Mr. GRAHAM. Mr. President, I am pleased to join my colleague from Rhode Island—the distinguished chairman of the Senate Environment and Public Works Committee—in the introduction of an initiative to help address our nation's infrastructure needs. Our initiative aims to harness the resources and energies of the public and the private sectors, and have them work in concert to ensure that a 21st century America has a modern system of roads, highways, and other critical public works assets. We are calling this new partnership the Transportation Infrastructure Finance and Innovation Act of 1997—TIFIA.

Mr. President, the numbers paint a stark and disturbing picture of the state of our nation's infrastructure. A survey of our nation's community water system estimated that a minimum of $138.4 billion are needed over a 20 year period for the purposes of installing, upgrading, or replacing water mains, pipes, and processing facilities. Houston Mayor Bob Lanier, Chairman of the Rebuild America Coalition, reports that "57 percent of highway pavement in all but a handful of states is in poor or mediocre condition; in some of the most populous regions, the figure is as high as 70%." The U.S. Department of Transportation estimates that our nation must invest an additional $33 billion in surface transportation in order to stay ahead of future growth, congestion, and development. We are also faced with 187,000 structurally deficient and functionally obsolete bridges. According to the Federal Highway Administration, a minimum of $8.2 billion is required to improve and correct bridge conditions.

In addition to these needs, we are faced with the important and challenging task of balancing the federal budget in order to preserve the health and prosperity of future generations of Americans. In order to achieve this goal and still meet our nation's infrastructure needs, our actions must be a combination of traditional as well as new and innovative means of financing.

Specifically, I believe that we need to do the following: First, we need to provide for a more efficient use of resources going to improve and develop our nation's infrastructure. We need to better utilize cost-saving tools and techniques so that we can stretch our nation's public investment dollars as far as possible in this time of limited federal funds. Second, we need to raise the level of traditional resources so that states will have a larger pool of dollars, including federal dollars, available for infrastructure development. Third, we need to attract and facilitate new and innovative financing sources, such as private investment. By fostering greater private-public partnerships, we can provide additional funding resources for states and communities. Finally, we need to develop and support innovative construction and financing mechanisms, such as State Infrastructure Banks (SIBs) and the legislation we are introducing today, TIFIA.

In the face of declining federal investment in infrastructure amidst tight fiscal constraints, TIFIA enables communities and states to utilize creative methods for addressing our nation's infrastructure needs. TIFIA would provide $800 million in federal credit assistance for major transportation infrastructure projects costing in excess of $100 million. The legislation provides a model in which states could use federal loans to develop large projects that have the potential to be self-supporting.

Projects which would be candidates for receiving assistance under this program include: The Western Extension of the George Bush Freeway in Texas; the Broken Arrow Expressway in Oklahoma; the widening of US Highway 219 in New York; the Interstate 15 rebuilding project in Utah; the Border Infrastructure project in Southern California; and the Florida High Speed Rail.

In my state of Florida, the state's Department of Transportation is proposing the Florida High Speed Rail project, which would connect the major metropolitan areas of Miami, Orlando, and Tampa, and be the first true high speed rail line in our nation. Japan and nations in Europe have already made major progress in high speed rail transportation—but this progress has been contingent on support from their national governments. TIFIA could provide important credit support for such projects of national significance.

Creative financing for infrastructure development is crucial as we enter the 21st century and are confronted with the extensive needs which can only be addressed through new and visionary approaches. In this Congress, we are scheduled to reauthorize both the Clean Water Act and ISTEA, the Intermodal Surface Transportation Efficiency Act, which governs our nation's highway system—two major infrastructure bills which address pressing needs that affect the daily lives of citizens nationwide.

As we focus on these two major bills, it is my hope that we will take steps to improve the state of our nation's public works system in a substantial and effective manner. TIFIA should be used as one model for taking these steps using a creative private-public financing approach. In fact, it is my hope that this legislation will be incorporated into ISTEA.

We should create new partnerships which will help us to meet current and future needs while acknowledging the limited resources available to us in this fiscal environment. If we are to rebuild our nation's infrastructure, and

lay the groundwork for the next generation of transportation infrastructure, we will need to develop innovative financing programs such as TIFIA.

It is my hope that after we complete the Highway Program bill—with the inclusion of TIFIA as an innovative financing title—we will develop similar mechanisms for addressing the financing requirements of other major public works needs such as clean water systems and perhaps even school construction.

We should heed the wisdom found in the words of Daniel Burnham, a prominent architect who served as chairman of a commission charged with redeveloping the District of Columbia, "Think no small ideas. Small ideas have no magic to stir men's minds." Let us use this bill as the starting point from which to make a serious and substantial dent in our national development needs.

Mr. President, I thank the Chairman for his leadership in this area and look forward to working closely with him as we work to pass this bill and reauthorize the Highway Program.

ADDITIONAL COSPONSORS

S. 364

At the request of Mr. LIEBERMAN, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 364, a bill to provide legal standards and procedures for suppliers of raw materials and component parts for medical devices.

S. 387

At the request of Mr. HATCH, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 387, a bill to amend the Internal Revenue Code of 1986 to provide equity to exports of software.

S. 492

At the request of Mr. SARBANES, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 492, a bill to amend certain provisions of title 5, United States Code, in order to ensure equality between Federal firefighters and other employees in the civil service and other public sector firefighters, and for other purposes.

S. 496

At the request of Mr. CHAFEE, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 496, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence.

S. 507

At the request of Mr. HATCH, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 507, a bill to establish the United States Patent and Trademark Organization as a Government corporation, to amend the provisions of title 35, United States Code, relating to procedures for patent applications, commercial use of patents, reexamination reform, and for other purposes.

S. 551

At the request of Mr. GREGG, the names of the Senator from Ohio [Mr. DEWINE] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 551, a bill to amend the Occupational Safety and Health Act of 1970 to make modifications to certain provisions.

S. 682

At the request of Mr. HARKIN, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 682, a bill to amend title 32, United States Code, to make available not less than $200,000,000 each fiscal year for funding of activities under National Guard drug interdiction and counterdrug activities plans.

S. 755

At the request of Mr. CAMPBELL, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of S. 755, a bill to amend title 10, United States Code, to restore the provisions of chapter 76 of that title (relating to missing persons] as in effect before the amendments made by the National Defense Authorization Act for Fiscal Year 1997 and to make other improvements to that chapter.

S. 872

At the request of Mr. ROBERTS, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 872, a bill to amend the Internal Revenue Code of 1986 to provide for the nonrecognition of gain for sale of stock to certain farmers' cooperatives, and for other purposes.

SENATE JOINT RESOLUTION 6

At the request of Mr. KYL, the names of the Senator from New Hampshire [Mr. GREGG], the Senator from Nebraska [Mr. HAGEL], and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of Senate Joint Resolution 6, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

SENATE RESOLUTION 94

At the request of Mr. WARNER, the names of the Senator from Montana [Mr. BURNS], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of Senate Resolution 94, a resolution commending the American Medical Association on its 150th anniversary, its 150 years of caring for the United States, and its continuing effort to uphold the principles upon which Nathan Davis, M.D. and his colleagues founded the American Medical Association to "promote the science and art of medicine and the betterment of public health."

AMENDMENT NO. 469

At the request of Mr. SPECTER the names of the Senator from Pennsylvania [Mr. SANTORUM], the Senator from Maine [Ms. SNOWE], the Senator from Maine [Ms. COLLINS], and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of amendment No. 469 proposed to S. 947, an original bill to provide for reconciliation pursuant to section 104(a) of the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 471

At the request of Mr. SPECTER the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of amendment No. 471 proposed to S. 947, an original bill to provide for reconciliation pursuant to section 104(a) of the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 492

At the request of Mr. KENNEDY the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of amendment No. 492 proposed to S. 947, an original bill to provide for reconciliation pursuant to section 104(a) of the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 498

At the request of Mr. HARKIN the names of the Senator from Iowa [Mr. GRASSLEY], the Senator from Massachusetts [Mr. KERRY], the Senator from Arkansas [Mr. BUMPERS], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of amendment No. 498 proposed to S. 947, an original bill to provide for reconciliation pursuant to section 104(a) of the concurrent resolution on the budget for fiscal year 1998.

At the request of Mr. DOMENICI his name, and the name of the Senator from Missouri [Mr. BOND] were added as cosponsors of amendment No. 498 proposed to S. 947, supra.

SENATE RESOLUTION 103—TO CONGRATULATE THE CHICAGO BULLS

Ms. MOSELEY-BRAUN (for herself and Mr. DURBIN) submitted the following resolution; which was considered and agreed to:

S. RES. 103

Whereas the Chicago Bulls at 69–13, posted the second best regular season record in the history of the National Basketball Association;

Whereas the Bulls once again roared through the playoffs, sweeping the Washington Bullets and defeating the Atlanta Hawks in 5 games, before beating the Miami Heat in 5 games to return to the NBA Finals for the second straight year;

Whereas the Bulls displayed a potent offense and stifling defense throughout the playoffs before beating the Utah Jazz to win their second consecutive NBA championship, their fifth in the last 7 years;

Whereas head coach Phil Jackson and the entire coaching staff skillfully led the Bulls

through a 69-win season and a 15-4 playoff run;

Whereas Michael Jordan and Scottie Pippen were again named to the NBA's "All-Defensive First Team", the only 2 players from the same team to be so named, and were each voted to be among the 50 greatest players in NBA history;

Whereas Michael Jordan won his record ninth scoring title, is the sixth leading scorer in NBA history, and was named playoff most valuable player for the fifth time in 5 playoff appearances;

Whereas Scottie Pippen again exhibited his outstanding offensive and defensive versatility, providing himself to be one of the best all-round players in the NBA;

Whereas the quickness, tireless defensive effort, and athleticism of the colorful Dennis Rodman, who won his sixth straight rebounding title, keyed a strong Bulls front line;

Whereas veteran guard Ron Harper, in shutting down many of the league's top point guards throughout the playoffs, demonstrated the defensive skills that have made him a cornerstone of the league's best defense;

Whereas center Luc Longley frustrated many of the all-star caliber centers that he faced in this year's playoffs while at times providing a much needed scoring lift;

Whereas Toni Kukoc, despite injury, displayed his awesome variety of offensive skills in both assisting on, and hitting, several big short when the Bulls needed them most;

Whereas Steve Kerr, with his laser-like 3-point shooting, sparked many a Bulls rally and hit the championship winning shot in game 6 of the NBA finals;

Whereas the outstanding play of Brian Williams and Jason Caffey, and the tenacious defense of Randy Brown, each of whom came off the bench to provide valuable contributions, were an important part of each Bulls victory;

Whereas Jud Buechler and Robert Parish provided valuable contributions throughout the season and the playoffs, both on and off the court, at times giving the Bulls the emotional lift they needed; and

Whereas the regular season contributions of injured center Bill Wennington, forward Dickey Simpkins, and rookie Matt Steigenga, both on the court and in practice, again demonstrated the total devotion of Bulls personnel to the team concept that has made the Bulls one of the great sports dynasties of modern times: Now, therefore, be it

Resolved, That the Senate congratulates the Chicago Bulls on winning the 1997 National Basketball Association championship.

AMENDMENTS SUBMITTED

THE TAX FAIRNESS ACT OF 1997

BOND (AND OTHERS) AMENDMENT NO. 514

(Ordered to lie on the table.)

Mr. BOND (for himself, Mr. ENZI, Mr. NICKLES, Mrs. HUTCHISON, and Mr. HAGEL) submitted an amendment intended to be proposed by them to the bill, S. 949, to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998; as follows:

On page 212, between lines 11 and 12, insert the following:

SEC. . DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS INCREASED.

(a) IN GENERAL.—Section 162(1)(1) (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the amount paid during the taxable year for insurance which constitutes medical are for the taxpayer, the taxpayer's spouse, and dependents.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

DORGAN AMENDMENTS NOS. 515–517

Mr. DORGAN proposed three amendments to the bill, S. 949, supra; as follows:

AMENDMENT NO. 515

On page 211, between lines 5 and 6, insert the following:

SEC. 724. ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.

(a) IN GENERAL.—Section 6404 (relating to abatements) is amended by adding at the end the following:

"(h) ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.—

"(1) IN GENERAL.—If the Secretary extends for any period of time for filing income tax returns under section 6081 and the time for paying income tax with respect to such returns under section 6161 (and waives any penalties relating to the failure to so file or so pay) for any taxpayer located in a Presidentially declared disaster area, the Secretary shall abate for such period the assessment of any interest prescribed under section 6601 on such income tax.

"(2) PRESIDENTIALLY DECLARED DISASTER AREA.—For purposes of paragraph (1), the term 'Presidentially declared disaster area' means, with respect to any taxpayer, any area which the President has determined warrants assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disasters declared after December 31, 1996.

AMENDMENT NO. 516

On page 211, between lines 5 and 6, insert the following:

SEC. 724. DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS MAY BE USED WITHOUT PENALTY TO REPLACE OR REPAIR PROPERTY DAMAGED IN PRESIDENTIALLY DECLARED DISASTER AREA.

(a) IN GENERAL.—Section 72(t)(2) (relating to exceptions to 10-percent additional tax on early distributions), as amended by sections 203 and 303, is amended by adding at the end the following new subparagraph:

"(G) DISTRIBUTIONS FOR DISASTER-RELATED EXPENSES.—Distributions from an individual retirement plan which are qualified disaster-related distributions.".

(b) QUALIFIED DISASTER-RELATED DISTRIBUTIONS.—Section 72(t), as amended by sections 203 and 303, is amended by adding at the end the following new paragraph:

"(9) QUALIFIED DISASTER-RELATED DISTRIBUTIONS.—For purposes of paragraph (2)(E)—

"(A) IN GENERAL.—The term 'qualified disaster-related distribution' means any payment or distribution received by an individual to the extent that the payment or distribution is used by such individual within 60 days of the payment or distribution to pay for the repair or replacement of tangible property which is disaster-damaged property. Such term shall only include any payment or distribution which is made during the 2-year period beginning on the date of the determination referred to in subparagraph (C).

"(B) DISASTER-DAMAGED PROPERTY.—The term 'disaster-damaged property' means property—

"(i) which was located in a disaster area on the date of the determination referred to in subparagraph (C), and

"(ii) which was destroyed or substantially damaged as a result of the disaster occurring in such area.

"(C) DISASTER AREA.—The term 'disaster area' means an area determined by the President to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.".

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1996, with respect to disasters occurring after such date.

SEC. 725. ELIMINATION OF 10 PERCENT FLOOR FOR DISASTER LOSSES.

"(a) GENERAL RULE.—Section 165(h)(2)(A) (relating to net casualty loss allowed only to the extent it exceeds 10 percent of adjusted gross income) is amended by striking clauses (i) and (ii) and inserting the following new clauses:

"(i) the amount of the personal casualty gains for the taxable year,

"(ii) the amount of the federally declared disaster losses for the taxable year (or, if lesser, the net casualty loss), plus

"(iii) the portion of the net casualty loss which is not deductible under clause (ii) but only to the extent such portion exceeds 10 percent of the adjusted gross income of the individual.

For purposes of the preceding sentence, the term 'net casualty loss' means the excess of personal casualty losses for the taxable year over personal casualty gains.".

(b) FEDERALLY DECLARED DISASTER LOSS DEFINED.—Section 165(h)(3) (relating to treatment of casualty gains and losses) is amended by adding at the end the following new subparagraph:

"(C) FEDERALLY DECLARED DISASTER LOSS.—The term 'federally declared disaster loss' means any personal casualty loss attributable to a disaster occurring in an area subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.".

(c) CONFORMING AMENDMENT.—The heading for section 165(h)(2) is amended by striking "NET CASUALTY LOSS" and inserting "NET NONDISASTER CASUALTY LOSS".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to losses attributable to disasters occurring after December 31, 1996, including for purposes of determining the portion of such losses allowable in taxable years ending before such date pursuant to an election under section 165(i) of the Internal Revenue Code of 1986.

Strike section 751 of the bill.

On page 239 strike lines 18 and 19.

On page 239, line 20, strike "(5)" and insert "(4)".

On page 240, line 1, strike "(6)" and insert "(5)".

AMENDMENT NO. 517

On page 96, strike lines 11 through 16, and insert:

"(3) ADJUSTED NET CAPITAL GAIN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'adjusted net capital gain' means net capital gain determined without regard to—

"(i) collectibles gain, and

"(ii) unrecaptured section 1250 gain.

"(B) $1,000,000 LIFETIME LIMITATION.—

"(i) IN GENERAL.—The adjusted net capital gain for any taxable year shall not exceed $1,000,000, reduced by the aggregate adjusted net capital gain for all prior taxable years.

"(ii) SPECIAL RULE FOR JOINT RETURNS.—The amount of the adjusted net 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 clause (i) for any succeeding taxable year.

"(C) CAPITAL GAINS RATE REDUCTION NOT TO APPLY TO CERTAIN TAXPAYERS.—The adjusted net capital gain for any taxable year in the case of any of the following taxpayers shall be zero:

"(i) 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.

"(ii) A married individual (within the meaning of section 7703) filing a separate return for the taxable year.

"(iii) An estate or trust.

BUMPERS (AND OTHERS) AMENDMENT NO. 518

Mr. BUMPERS (for himself, Mr. GREGG, and Mr. ROBB) proposed an amendment to the bill, S. 949, supra; as follows:

At the appropriate place in the bill add the following new section:

SEC. . REPEAL OF DEPLETION ALLOWANCE FOR CERTAIN HARDROCK MINES.

(a) IN GENERAL.—The first sentence of section 611(a) of the Internal Revenue Code of 1986, 26 U.S.C. 611(a), is amended by inserting immediately after "mines" the following: "(except for hardrock mines located on land subject to the general mining laws or on land patented under the general mining laws unless such patented land was acquired (subsequent to the date the patent was issued), pursuant to an arms-length transaction prior to June 25, 1997)".

(b) DEFINITION.—Section 611 of the Internal Revenue Code of 1986 is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

"(c) DEFINITIONS.—For purposes of subsection (a), 'general mining laws' means those Acts which comprise chapters 2, 12A, and 16, and sections 161 and 162 of title 30 of the United States Code."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

DURBIN (AND OTHERS) AMENDMENT NO. 519

Mr. DURBIN (for himself, Mr. DORGAN, Mr. DASCHLE, and Mr. HARKIN) proposed an amendment to the bill, S. 949, supra; as follows:

On page 267, between lines 15 and 16, insert the following:

SEC. 780. DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS INCREASED.

(a) IN GENERAL.—Section 162(l)(1) (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, the taxpayer's spouse, and dependents.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

On page 337, beginning with line 14, strike all through page 339, line 15, and insert the following:

(a) CIGARETTES.—Subsection (b) of section 5701 is amended—

(1) by striking "$12 per thousand ($10 per thousand on cigarettes removed during 1991 or 1992)" in paragraph (1) and insert "$27.50 per thousand", and

(2) by striking "$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 or 1992)" in paragraph (2) and insert "$57.75 per thousand".

(b) CIGARS.—Subsection (a) of section 5701 is amended—

(1) by striking "1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 or 1992)" in paragraph (1) and inserting "$2.531 cents per thousand", and

(2) by striking "equal to" and all that follows in paragraph (2) and inserting "equal to 28.6875 percent of the price for which sold but not more than $67.50 per thousand.

(c) CIGARETTE PAPERS.—Subsection (c) of section 5701 is amended by striking "0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)" and inserting "1.69 cents".

(d) CIGARETTE TUBES.—Subsection (d) of section 5701 is amended by striking "1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)" and inserting "3.38 cents".

(e) SMOKELESS TOBACCO.—Subsection (e) of section 5701 is amended—

(1) by striking "36 cents (30 cents on snuff removed during 1991 or 1992)" in paragraph (1) and inserting "$1.9933 cents", and

(2) by striking "12 cents (10 cents on chewing tobacco removed during 1991 or 1992)" in paragraph (2) and inserting "75.33 cents".

(f) PIPE TOBACCO.—Subsection (f) of section 5701 is amended by striking "67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)" and inserting "$1.5188 cents".

(g) IMPOSITION OF EXCISE TAX ON MANUFACTURE OR IMPORTATION OF ROLL-YOUR-OWN TOBACCO.—

(1) IN GENERAL.—Section 5701 (relating to rate of tax) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) ROLL-YOUR-OWN TOBACCO.—On roll-your-own tobacco, manufactured in or imported into the United States, there shall be imposed a tax of 81 cents per pound (and a proportionate tax at the like rate on all fractional parts of a pound)."

ROTH AMENDMENT NO. 520

Mr. ROTH proposed an amendment to the bill, S. 949, supra; as follows:

At the appropriate place, insert the following:

TITLE —CHILDREN'S HEALTH INSURANCE INITIATIVES

SEC. . ESTABLISHMENT OF CHILDREN'S HEALTH INSURANCE INITIATIVES.

(a) IN GENERAL.—The Social Security Act is amended by adding at the end the following:

"TITLE XXI—CHILD HEALTH INSURANCE INITIATIVES

"SEC. 2101. PURPOSE.

The purpose of this title is to provide funds to States to enable such States to expand the provision of health insurance coverage for low-income children. Funds provided under this title shall be used to achieve this purpose through outreach activities described in section 2106(a) and, at the option of the State through—

"(1) a grant program conducted in accordance with section 2107 and the other requirements of this title; or

"(2) expansion of coverage of such children under the State medicaid program who are not required to be provided medical assistance under section 1902(l) (taking into account the process of individuals aging into eligibility under subsection (l)(1)(D)).

"SEC. 2102. DEFINITIONS.

In this title:

"(1) BASE-YEAR COVERED LOW-INCOME CHILD POPULATION.—The term 'base-year covered low-income child population' means the total number of low-income children with respect to whom, as of fiscal year 1996, an eligible State provides or pays the cost of health benefits either through a State funded program or through eligibility under the State plan under title XIX (including under a waiver of such plan), as determined by the Secretary.

"(2) CHILD.—The term 'child' means an individual under 19 years of age.

"(3) ELIGIBLE STATE.—The term 'eligible State' means, with respect to a fiscal year, a State that—

"(A) provides, under section 1902(l)(1)(D) or under a waiver, for eligibility for medical assistance under a State plan under title XIX of individuals under 19 years of age, regardless of date of birth; and

"(B) has submitted to the Secretary under section 2104 a program outline that—

"(i) sets forth how the State intends to use the funds provided under this title to provide health insurance coverage for low-income children consistent with the provisions of this title; and

"(ii) is approved under section 2104; and

"(iii) otherwise satisfies the requirements of this title.

"(4) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—The term 'Federal medical assistance percentage' means, with respect to a State, the meaning given that term under section 1905(b).

"(5) FEHBP-EQUIVALENT CHILDREN'S HEALTH INSURANCE COVERAGE.—The term 'FEHBP-equivalent children's health insurance coverage' means, with respect to a State, any plan or arrangement that provides, or pays the cost of, health benefits that the Secretary has certified are actuarially equivalent to the benefits required to be offered for a child under chapter 89 of title 5, United States Code, and that otherwise satisfies State insurance standards and requirements.

"(6) INDIANS.—The term 'Indians' has the meaning given that term in section 4(c) of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

"(7) LOW-INCOME CHILD.—The term 'low-income child' means a child in a family whose income is below 200 percent of the poverty line for a family of the size involved.

"(8) POVERTY LINE.—The term 'poverty line' has the meaning given that term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

"(9) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(10) STATE.—The term 'State' means each of the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

"(11) STATE CHILDREN'S HEALTH EXPENDITURES.—The term 'State children's health expenditures' means the State share of expenditures by the State for providing children with health care items and services under—

"(A) the State plan for medical assistance under title XIX;

"(B) the maternal and child health services block grant program under title V;

"(C) the preventive health services block grant program under part A of title XIX of the Public Health Services Act (42 U.S.C. 300w et seq.);

"(D) State-funded programs that are designed to provide health care items and services to children;

"(E) school-based health services programs;

"(F) State programs that provide uncompensated or indigent health care;

"(G) county-indigent care programs for which the State requires a matching share by a county government or for which there are intergovernmental transfers from a county to State government; and

"(H) any other program under which the Secretary determines the State incurs uncompensated expenditures for providing children with health care items and services.

"(12) STATE MEDICAID PROGRAM.—The term 'State medicaid program' means the program of medical assistance provided under title XIX.

"SEC. 2103. APPROPRIATION.

"(a) APPROPRIATION.—

"(1) IN GENERAL.—Subject to subsection (b), out of any money in the Treasury of the United States not otherwise appropriated, there is appropriated for the purpose of carrying out this title—

"(A) for each of fiscal years 1998 and 1999, $1,000,000,000;

"(B) for each of fiscal years 2000 through 2002, $2,000,000,000; and

"(C) for each of fiscal years 2003 through 2007, $0.

"(2) AVAILABILITY.—Funds appropriated under this section shall remain available without fiscal year limitation, as provided under section 2105(b)(4).

"(b) REDUCTION FOR INCREASED MEDICAID EXPENDITURES.—With respect to each of the fiscal years described in subsection (a)(1), the amount appropriated under subsection (a)(1) for each such fiscal year shall be reduced by an amount equal to the amount of the total Federal outlays under the medicaid program under title XIX resulting from—

"(1) the amendment made by section 5732 of the Balanced Budget Act of 1997 (regarding the State option to provide 12-month continuous eligibility for children);

"(2) increased enrollment under State plans approved under such program as a result of outreach activities under section 2106(a); and

"(3) the requirement under section 2102(3)A) to provide eligibility for medical assistance under the State plan under title XIX for all children under 19 years of age who have families with income that is at or below the poverty line.

"(c) STATE ENTITLEMENT.—This title 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 provided in accordance with the provisions of this title.

"(d) EFFECTIVE DATE.—No State is eligible for payments under section 2105 for any calendar quarter beginning before October 1, 1997.

"SEC. 2104. PROGRAM OUTLINE.

"(a) GENERAL DESCRIPTION.—A State shall submit to the Secretary a program outline, consistent with the requirements of this title, that—

"(1) identifies which of the 2 options described in section 2101 the State intends to use to provide low-income children in the State with health insurance coverage;

"(2) describes the manner in which such coverage shall be provided; and

"(3) provides such other information as the Secretary may require.

"(b) OTHER REQUIREMENTS.—The program outline submitted under this section shall include the following:

"(1) ELIGIBILITY STANDARDS AND METHODOLOGIES.—A summary of the standards and methodologies used to determine the eligibility of low-income children for health insurance coverage under a State program funded under this title.

"(2) ELIGIBILITY SCREENING; COORDINATION WITH OTHER HEALTH COVERAGE.—A description of the procedures to be used to ensure—

"(A) through both intake and followup screening, that only low-income children are furnished health insurance coverage through funds provided under this title; and

"(B) that any health insurance coverage provided for children through funds under this title does not reduce the number of children who are provided such coverage through any other publicly or privately funded health plan.

"(3) INDIANS.—A description of how the State will ensure that Indians are served through a State program funded under this title.

"(c) DEADLINE FOR SUBMISSION.—A State program outline shall be submitted to the Secretary by not later than March 31 of any fiscal year (October 1, 1997, in the case of fiscal year 1998).

"SEC. 2105. DISTRIBUTION OF FUNDS.

"(a) ESTABLISHMENT OF FUNDING POOLS.—

"(1) IN GENERAL.—From the amount appropriated under section 2103(a)(1) for each fiscal year, determined after the reduction required under section 2103(b), the Secretary shall, for purposes of fiscal year 1998, reserve 85 percent of such amount for distribution to eligible States through the basic allotment pool under subsection (b) and 15 percent of such amount for distribution through the new coverage incentive pool under subsection (c)(2)(B)(ii).

"(2) ANNUAL ADJUSTMENT OF RESERVE PERCENTAGES.—The Secretary shall annually adjust the amount of the percentages described in paragraph (1) in order to provide sufficient basic allotments and sufficient new coverage incentives to achieve the purpose of this title.

"(b) DISTRIBUTION OF FUNDS UNDER THE BASIC ALLOTMENT POOL.—

"(1) STATES.—

"(A) IN GENERAL.—From the total amount reserved under subsection (a) for a fiscal year for distribution through the basic allotment pool, the Secretary shall first set aside 0.25 percent for distribution under paragraph (2) and shall allot from the amount remaining to each eligible State not described in such paragraph the State's allotment percentage for such fiscal year.

"(B) STATE'S ALLOTMENT PERCENTAGE.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the allotment percentage for a fiscal year for each State is the percentage equal to the ratio of the number of low-income children in the base period in the State to the total number of low-income children in the base period in all States not described in paragraph (2).

"(ii) NUMBER OF LOW-INCOME CHILDREN IN THE BASE PERIOD.—In clause (i), the number of low-income children in the base period for a fiscal year in a State is equal to the average of the number of low-income children in the State for the period beginning on October 1, 1992, and ending on September 30, 1995, as reported in the March 1994, March 1995, and March 1996 supplements to the Current Population Survey of the Bureau of the Census.

"(2) OTHER STATES.—

"(A) IN GENERAL.—From the amount set aside under paragraph (1)(A) for each fiscal year, the Secretary shall make allotments for such fiscal year in accordance with the percentages specified in subparagraph (B) to Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands, if such States are eligible States for such fiscal year.

"(B) PERCENTAGES SPECIFIED.—The percentages specified in this subparagraph are in the case of—

"(i) Puerto Rico, 91.6 percent;

"(ii) Guam, 3.5 percent;

"(iii) the Virgin Islands, 2.6 percent;

"(iv) American Samoa, 1.2 percent; and

"(v) the Northern Mariana Islands, 1.1 percent.

"(3) THREE-YEAR AVAILABILITY OF AMOUNTS ALLOTTED.—Amounts allotted to a State pursuant to this subsection for a fiscal year shall remain available for expenditure by the State through the end of the second succeeding fiscal year.

"(4) PROCEDURE FOR DISTRIBUTION OF UNUSED FUNDS.—The Secretary shall determine an appropriate procedure for distribution of funds to eligible States that remain unused under this subsection after the expiration of the availability of funds required under paragraph (3). Such procedure shall be developed and administered in a manner that is consistent with the purpose of this title.

"(c) PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall—

"(A) before October 1 of any fiscal year, pay an eligible State an amount equal to 1 percent of the amount allotted to the State under subsection (b) for conducting the outreach activities required under section 2106(a); and

"(B) make quarterly fiscal year payments to an eligible State from the amount remaining of such allotment for such fiscal year in an amount equal to the Federal medical assistance percentage for the State, as determined under section 1905(b)(1), of the cost of providing health insurance coverage for a low-income child in the State plus the applicable bonus amount.

"(2) APPLICABLE BONUS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the applicable bonus amount is—

"(i) 5 percent of the cost, with respect to a period, of providing health insurance coverage for the base-year covered low-income child population (measured in full year equivalency); and

"(ii) 10 percent of the cost, with respect to a period, of providing health insurance coverage for the number (as so measured) of low-income children that are in excess of such population.

"(B) SOURCE OF BONUSES.—

"(i) BASE-YEAR COVERED LOW-INCOME CHILD POPULATION.—A bonus described in subparagraph (A)(i) shall be paid out of an eligible State's allotment for a fiscal year.

"(ii) FOR OTHER LOW-INCOME CHILD POPULATIONS.—A bonus described in subparagraph (A)(ii) shall be paid out of the new coverage incentive pool reserved under subsection (a)(1).

"(3) DEFINITION OF COST OF PROVIDING HEALTH INSURANCE COVERAGE.—For purposes of this subsection the cost of providing health insurance coverage for a low-income child in the State means—

"(A) in the case of an eligible State that opts to use funds provided under this title through the medicaid program, the cost of providing such child with medical assistance under the State plan under title XIX; and

"(B) in the case of an eligible State that opts to use funds provided under this title under section 2107, the cost of providing such child with health insurance coverage under such section.

"(4) LIMITATION ON TOTAL PAYMENTS.—With respect to a fiscal year, the total amount paid to an eligible State under this title (including any bonus payments) shall not exceed 85 percent of the total cost of a State program conducted under this title for such fiscal year.

"(5) MAINTENANCE OF EFFORT.—No funds shall be paid to a State under this title if—

"(A) in the case of fiscal year 1998, the State children's health expenditures are less than the amount of such expenditures for fiscal year 1996; and

"(B) in the case of any succeeding fiscal year, the State children's health expenditures described in section 2102(11)(A) are less than the amount of such expenditures for fiscal year 1996, increased by a medicaid child population growth factor determined by the Secretary.

"(6) ADVANCE PAYMENT; RETROSPECTIVE ADJUSTMENT.—The Secretary may make payments under this subsection for each quarter on the basis of advance estimates of expenditures submitted by the State and such other investigation as the Secretary may find necessary, and shall reduce or increase the payments as necessary to adjust for any overpayment or underpayment for prior quarters.

"SEC. 2106. USE OF FUNDS.

"(a) SET-ASIDE FOR OUTREACH ACTIVITIES.—

"(1) IN GENERAL.—From the amount allotted to a State under section 2105(b) for a fiscal year, each State shall conduct outreach activities described in paragraph (2).

"(2) OUTREACH ACTIVITIES DESCRIBED.—The outreach activities described in this paragraph include activities to—

"(A) identify and enroll children who are eligible for medical assistance under the State plan under title XIX; and

"(B) conduct public awareness campaigns to encourage employers to provide health insurance coverage for children.

"(b) STATE OPTIONS FOR REMAINDER.—A State may use the amount remaining of the allotment to a State under section 2105(b) for a fiscal year, determined after the payment required under section 2105(c)(1)(A), in accordance with section 2107 or the State medicaid program (but not both).

"(c) PROHIBITION ON USE FOR ABORTIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no funds provided under this title may be used to pay for any abortion or to assist in the purchase, in whole or in part, of health benefit coverage that includes coverage of abortion.

"(2) EXCEPTION.—Paragraph (1) shall not apply to an abortion if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.

"(d) USE LIMITED TO STATE PROGRAM EXPENDITURES.—Funds provided to an eligible State under this title shall only be used to carry out the purpose of this title.

"(e) ADMINISTRATIVE EXPENDITURES.—Not more than 10 percent of the amount allotted to a State under section 2105(b), determined after the payment required under section 2105(c)(1)(A), shall be used for administrative expenditures for the program funded under this title.

"(f) NONAPPLICATION OF FIVE-YEAR LIMITED ELIGIBILITY FOR MEANS-TESTED PUBLIC BENEFITS.—The provisions of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613) shall not apply with respect to a State program funded under this title.

"SEC. 2107. STATE OPTION FOR THE PURCHASE OR PROVISION OF CHILDREN'S HEALTH INSURANCE.

"(a) STATE OPTION.—

"(1) IN GENERAL.—An eligible State that opts to use funds provided under this title under this section shall use such funds to—

"(A) subsidize payment of employee contributions for health insurance coverage for a dependent low-income child that is available through group health insurance coverage offered by an employer in the State; or

"(B) to provide FEHBP-equivalent children's health insurance coverage for low-income children who reside in the State.

"(2) PRIORITY FOR LOW-INCOME CHILDREN.—A State that uses funds provided under this title under this section shall not cover low-income children with higher family income without covering such children with a lower family income.

"(3) DETERMINATION OF ELIGIBILITY AND FORM OF ASSISTANCE.—An eligible State may establish any additional eligibility criteria for the provision of health insurance coverage for a low-income child through funds provided under this title, so long as such criteria and assistance are consistent with the purpose and provisions of this title.

"(4) COVERAGE OF CERTAIN BENEFITS.—Any eligible State that opts to use funds provided under this title under this section for the coverage described in paragraph (1)(B) is encouraged to include as part of such coverage, coverage for items and services needed for vision, hearing, and dental health.

"(b) NONENTITLEMENT.—Nothing in this section shall be construed as providing an entitlement for an individual or person to any health insurance coverage, assistance, or service provided through a State program funded under this title. If, with respect to a fiscal year, an eligible State determines that the funds provided under this title are not sufficient to provide health insurance coverage for all the low-income children that the State proposes to cover in the State program outline submitted under section 2104 for such fiscal year, the State may adjust the applicable eligibility criteria for such children appropriately or adjust the State program in another manner specified by the Secretary, so long as any such adjustments are consistent with the purpose of this title.

"SEC. 2108. PROGRAM INTEGRITY.

"The following provisions of the Social Security Act shall apply to eligible States under this title in the same manner as such provisions apply to a State under title XIX:

"(1) Section 1116 (relating to administrative and judicial review).

"(2) Section 1124 (relating to disclosure of ownership and related information).

"(3) Section 1126 (relating to disclosure of information about certain convicted individuals).

"(4) Section 1128A (relating to exclusion from individuals and entities from participation in State health care plans).

"(5) Section 1128B(d) (relating to criminal penalties for certain additional charges).

"(6) Section 1132 (relating to periods within which claims must be filed).

"(7) Section 1902(a)(4)(C) (relating to conflict of interest standards).

"(8) Section 1903(i) (relating to limitations on payment).

"(9) Section 1903(w) (relating to limitations on provider taxes and donations).

"(10) Section 1905(a)(B) (relating to the exclusion of care or services for any individual who has not attained 65 years of age and who is a patient in an institution for mental diseases from the definition of medical assistance).

"(11) Section 1921 (relating to state licensure authorities).

"(12) Sections 1902(a)(25), 1912(a)(1)(A), and 1903(o) (insofar as such sections relate to third party liability).

"SEC. 2109. ANNUAL REPORTS.

"(a) ANNUAL STATE ASSESSMENT OF PROGRESS.—An eligible State shall—

"(1) assess the operation of the State program funded under this title in each fiscal year, including the progress made in providing health insurance coverage for low-income children; and

"(2) report to the Secretary, by January 1 following the end of the fiscal year, on the result of the assessment.

"(b) REPORT OF THE SECRETARY.—The Secretary shall submit to the appropriate committees of Congress an annual report and evaluation of the State programs funded under this title based on the State assessments and reports submitted under subsection (a). Such report shall include any conclusions and recommendations that the Secretary considers appropriate.".

(b) CONFORMING AMENDMENT.—Section 1128(h) (42 U.S.C. 1320a–7(h)) is amended by—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period and inserting ", or"; and

(3) by adding at the end the following:

"(4) a program funded under title XXI.".

SEC. ___. APPLICABILITY.

If, on the date of enactment of this Act, the Social Security Act contains a title XXI, the amendments made to the Social Security Act by this title shall not take effect, except that amounts appropriated under such title XXI for a fiscal year shall be increased by the amounts that would have been appropriated for such fiscal year under section 2103 of the Social Security Act, as added by this title.

ROTH AMENDMENT NO. 521

Mr. ROTH proposed an amendment to amendment No. 520 proposed by him to the bill, S. 949, supra; as follows:

On page 1, line 2 of the amendment strike all after the first word and insert the following:

___—CHILDREN'S HEALTH INSURANCE INITIATIVES

SEC. ___. ESTABLISHMENT OF CHILDREN'S HEALTH INSURANCE INITIATIVES.

(a) IN GENERAL.—The Social Security Act is amended by adding at the end the following:

"TITLE XXI—CHILD HEALTH INSURANCE INITIATIVES

"SEC. 2101. PURPOSE.

"The purpose of this title is to provide funds to States to enable such States to expand the provision of health insurance coverage for low-income children. Funds provided under this title shall be used to achieve this purpose through outreach activities described in section 2106(a) and, at the option of the State through—

"(1) a grant program conducted in accordance with section 2107 and the other requirements of this title; or

"(2) expansion of coverage of such children under the State medicaid program who are not required to be provided medical assistance under section 1902(l) (taking into account the process of individuals aging into eligibility under subsection (l)(1)(D)).

"SEC. 2102. DEFINITIONS.

"In this title:

"(1) BASE-YEAR COVERED LOW-INCOME CHILD POPULATION.—The term 'base-year covered low-income child population' means the total number of low-income children with respect to whom, as of fiscal year 1996, an eligible State provides or pays the cost of health benefits either through a State funded program or through expanded eligibility under the State plan under title XIX (including under a waiver of such plan), as determined by the Secretary. Such term does not include any low-income child described in paragraph (3)(A) that a State must cover in order to be considered an eligible State under this title.

"(2) CHILD.—The term 'child' means an individual under 19 years of age.

"(3) ELIGIBLE STATE.—The term 'eligible State' means, with respect to a fiscal year, a State that—

"(A) provides, under section 1902(l)(1)(D) or under a waiver, for eligibility for medical assistance under a State plan under title XIX of individuals under 17 years of age in fiscal year 1998, and under 19 years of age in fiscal year 2000, regardless of date of birth;

"(B) has submitted to the Secretary under section 2104 a program outline that—

"(i) sets forth how the State intends to use the funds provided under this title to provide health insurance coverage for low-income children consistent with the provisions of this title; and

"(ii) is approved under section 2104; and

"(iii) otherwise satisfies the requirements of this title; and

"(C) satisfies the maintenance of effort requirement described in section 2105(c)(5).".

"(4) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—The term 'Federal medical assistance percentage' means, with respect to a State, the meaning given that term under section 1905(b). Any cost-sharing imposed under this title may not be included in determining Federal medical assistance percentage for reimbursement of expenditures under a State program funded under this title.

"(5) FEHBP-EQUIVALENT CHILDREN'S HEALTH INSURANCE COVERAGE.—The term 'FEHBP-equivalent children's health insurance coverage' means, with respect to a State, any plan or arrangement that provides, or pays the cost of, health benefits that the Secretary has certified are equivalent to or better than the services covered for a child, including hearing and vision services, under the standard Blue Cross/Blue Shield preferred provider option service benefit plan offered under chapter 89 of title 5, United States Code.

"(6) INDIANS.—The term 'Indians' has the meaning given that term in section 4(c) of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

"(7) LOW-INCOME CHILD.—The term 'low-income child' means a child in a family whose income is below 200 percent of the poverty line for a family of the size involved.

"(8) POVERTY LINE.—The term 'poverty line' has the meaning given that term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

"(9) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(10) STATE.—The term 'State' means each of the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

"(11) STATE CHILDREN'S HEALTH EXPENDITURES.—The term 'State children's health expenditures' means the State share of expenditures by the State for providing children with health care items and services under—

"(A) the State plan for medical assistance under title XIX;

"(B) the maternal and child health services block grant program under title V;

"(C) the preventive health services block grant program under part A of title XIX of the Public Health Services Act (42 U.S.C. 300w et seq.);

"(D) State-funded programs that are designed to provide health care items and services to children;

"(E) school-based health services programs;

"(F) State programs that provide uncompensated or indigent health care;

"(G) county-indigent care programs for which the State requires a matching share by a county government or for which there are intergovernmental transfers from a county to State government; and

"(H) any other program under which the Secretary determines the State incurs uncompensated expenditures for providing children with health care items and services.

"(12) STATE MEDICAID PROGRAM.—The term 'State medicaid program' means the program of medical assistance provided under title XIX.

"SEC. 2103. APPROPRIATION.

"(a) APPROPRIATION.—

"(1) IN GENERAL.—Subject to subsection (b), out of any money in the Treasury of the United States not otherwise appropriated, there is appropriated for the purpose of carrying out this title—

"(A) for each of fiscal years 1998 and 1999, $1,000,000,000;

"(B) for each of fiscal years 2000 through 2002, $2,000,000,000; and

"(C) for each of fiscal years 2003 through 2007, $0.

"(2) AVAILABILITY.—Funds appropriated under this section shall remain available without fiscal year limitation, as provided under section 2105(b)(4).

"(b) REDUCTION FOR INCREASED MEDICAID EXPENDITURES.—With respect to each of the fiscal years described in subsection (a)(1), the amount appropriated under subsection (a)(1) for each such fiscal year shall be reduced by an amount equal to the amount of the total Federal outlays under the medicaid program under title XIX resulting from—

"(1) the amendment made by section 5732 of the Balanced Budget Act of 1997 (regarding the State option to provide 12-month continuous eligibility for children);

"(2) increased enrollment under State plans approved under such program as a result of outreach activities under section 2106(a); and

"(3) the requirement under section 2102(3)A) to provide eligibility for medical assistance under the State plan under title XIX for all children under 19 years of age who have families with income that is at or below the poverty line.

"(c) STATE ENTITLEMENT.—This title 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 provided in accordance with the provisions of this title.

"(d) EFFECTIVE DATE.—No State is eligible for payments under section 2105 for any calendar quarter beginning before October 1, 1997.

"SEC. 2104. PROGRAM OUTLINE.

"(a) GENERAL DESCRIPTION.—A State shall submit to the Secretary for approval a program outline, consistent with the requirements of this title, that—

"(1) identifies, on or after the date of enactment of the Balanced Budget Act of 1997, which of the 2 options described in section 2101 the State intends to use to provide low-income children in the State with health insurance coverage;

"(2) describes the manner in which such coverage shall be provided; and

"(3) provides such other information as the Secretary may require.

"(b) OTHER REQUIREMENTS.—The program outline submitted under this section shall include the following:

"(1) ELIGIBILITY STANDARDS AND METHODOLOGIES.—A summary of the standards and methodologies used to determine the eligibility of low-income children for health insurance coverage under a State program funded under this title.

"(2) ELIGIBILITY SCREENING; COORDINATION WITH OTHER HEALTH COVERAGE.—A description of the procedures to be used to ensure—

"(A) through both intake and followup screening, that only low-income children are furnished health insurance coverage through funds provided under this title; and

"(B) that any health insurance coverage provided for children through funds under this title does not reduce the number of children who are provided such coverage through any other publicly or privately funded health plan.

"(3) INDIANS.—A description of how the State will ensure that Indians are served through a State program funded under this title.

"(c) DEADLINE FOR SUBMISSION.—A State program outline shall be submitted to the Secretary by not later than March 31 of any fiscal year (October 1, 1997, in the case of fiscal year 1998).

"SEC. 2105. DISTRIBUTION OF FUNDS.

"(a) ESTABLISHMENT OF FUNDING POOLS.—

"(1) IN GENERAL.—From the amount appropriated under section 2103(a)(1) for each fiscal year, determined after the reduction required under section 2103(b), the Secretary shall, for purposes of fiscal year 1998, reserve 85 percent of such amount for distribution to eligible States through the basic allotment pool under subsection (b) and 15 percent of such amount for distribution through the new coverage incentive pool under subsection (c)(2)(B)(ii).

"(2) ANNUAL ADJUSTMENT OF RESERVE PERCENTAGES.—The Secretary shall annually adjust the amount of the percentages described in paragraph (1) in order to provide sufficient basic allotments and sufficient new coverage incentives to achieve the purpose of this title.

"(b) DISTRIBUTION OF FUNDS UNDER THE BASIC ALLOTMENT POOL.—

"(1) STATES.—

"(A) IN GENERAL.—From the total amount reserved under subsection (a) for a fiscal year for distribution through the basic allotment pool, the Secretary shall first set aside 0.25 percent for distribution under paragraph (2) and shall allot from the amount remaining to each eligible State not described in such paragraph the State's allotment percentage for such fiscal year.

"(B) STATE'S ALLOTMENT PERCENTAGE.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the allotment percentage for a fiscal year for each State is the percentage equal to the ratio of the number of low-income children in the base period in the State to the total number of low-income children in the base period in all States not described in paragraph (2).

"(ii) NUMBER OF LOW-INCOME CHILDREN IN THE BASE PERIOD.—In clause (i), the number of low-income children in the base period for a fiscal year in a State is equal to the average of the number of low-income children in the State for the period beginning on October 1, 1992, and ending on September 30, 1995, as reported in the March 1994, March 1995, and March 1996 supplements to the Current Population Survey of the Bureau of the Census.

"(2) OTHER STATES.—

"(A) IN GENERAL.—From the amount set aside under paragraph (1)(A) for each fiscal year, the Secretary shall make allotments for such fiscal year in accordance with the percentages specified in subparagraph (B) to Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands, if such States are eligible States for such fiscal year.

"(B) PERCENTAGES SPECIFIED.—The percentages specified in this subparagraph are in the case of—

"(i) Puerto Rico, 91.6 percent;

"(ii) Guam, 3.5 percent;

"(iii) the Virgin Islands, 2.6 percent;

"(iv) American Samoa, 1.2 percent; and

"(v) the Northern Mariana Islands, 1.1 percent.

"(3) THREE-YEAR AVAILABILITY OF AMOUNTS ALLOTTED.—Amounts allotted to a State pursuant to this subsection for a fiscal year shall remain available for expenditure by the State through the end of the second succeeding fiscal year.

"(4) PROCEDURE FOR DISTRIBUTION OF UNUSED FUNDS.—The Secretary shall determine an appropriate procedure for distribution of funds to eligible States that remain unused under this subsection after the expiration of the availability of funds required under paragraph (3). Such procedure shall be developed and administered in a manner that is consistent with the purpose of this title.

"(c) PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall—

"(A) before October 1 of any fiscal year, pay an eligible State an amount equal to 1 percent of the amount allotted to the State under subsection (b) for conducting the outreach activities required under section 2106(a); and

"(B) make quarterly fiscal year payments to an eligible State from the amount remaining of such allotment for such fiscal year in an amount equal to the Federal medical assistance percentage for the State (as defined under section 2102(4) and determined without regard to the amount of Federal funds received by the State under title XIX before the date of enactment of this title) of the Federal and State incurred cost of providing health insurance coverage for a low-income child in the State plus the applicable bonus amount.

"(2) APPLICABLE BONUS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the applicable bonus amount is—

"(i) 5 percent of the Federal and State incurred cost, with respect to a period, of providing health insurance coverage for children covered at State option among the base-year covered low-income child population (measured in full year equivalency) (including such children covered by the State through expanded eligibility under the medicaid program under title XIX before the date of enactment of this title, but excluding any low-income child described in section 2102(3)(A) that a State must cover in order to be considered an eligible State under this title); and

"(ii) 10 percent of the Federal and State incurred cost, with respect to a period, of providing health insurance coverage for children covered at State option among the number (as so measured) of low-income children that are in excess of such population.

"(B) SOURCE OF BONUSES.—

"(i) BASE-YEAR COVERED LOW-INCOME CHILD POPULATION.—A bonus described in subparagraph (A)(i) shall be paid out of an eligible State's allotment for a fiscal year.

"(ii) FOR OTHER LOW-INCOME CHILD POPULATIONS.—A bonus described in subparagraph (A)(ii) shall be paid out of the new coverage incentive pool reserved under subsection (a)(1).

"(3) DEFINITION OF COST OF PROVIDING HEALTH INSURANCE COVERAGE.—For purposes of this subsection the cost of providing health insurance coverage for a low-income child in the State means—

"(A) in the case of an eligible State that opts to use funds provided under this title through the medicaid program, the cost of providing such child with medical assistance under the State plan under title XIX; and

"(B) in the case of an eligible State that opts to use funds provided under this title under section 2107, the cost of providing such child with health insurance coverage under such section.

"(4) LIMITATION ON TOTAL PAYMENTS.—With respect to a fiscal year, the total amount paid to an eligible State under this title (including any bonus payments) shall not exceed 85 percent of the total cost of a State program conducted under this title for such fiscal year.

"(5) MAINTENANCE OF EFFORT.—

"(A) DEEMED COMPLIANCE.—A State shall be deemed to be in compliance with this provision if—

"(i) it does not adopt income and resource standards and methodologies that are more restrictive than those applied as of June 1, 1997, for purposes of determining a child's eligibility for medical assistance under the State plan under title XIX; and

"(ii) in the case of fiscal year 1998 and each fiscal year thereafter, the State children's health expenditures defined in section 2102(11) are not less than the amount of such expenditures for fiscal year 1996.

"(B) FAILURE TO MAINTAIN MEDICAID STANDARDS AND METHODOLOGIES.—A State that fails to meet the conditions described in subparagraph (A) shall not receive—

"(i) funds under this title for any child that would be determined eligible for medical assistance under the State plan under title XIX using the income and resource standards and methodologies applied under such plan as of June 1, 1997; and

"(ii) any bonus amounts described in paragraph (2)(A)(ii).

"(C) FAILURE TO MAINTAIN SPENDING ON CHILD HEALTH PROGRAMS.—A State that fails to meet the condition described in subparagraph (A)(ii) shall not receive funding under this title.

"(6) ADVANCE PAYMENT; RETROSPECTIVE ADJUSTMENT.—The Secretary may make payments under this subsection for each quarter on the basis of advance estimates of expenditures submitted by the State and such other investigation as the Secretary may find necessary, and shall reduce or increase the payments as necessary to adjust for any overpayment or underpayment for prior quarters.

"SEC. 2106. USE OF FUNDS.

"(a) SET-ASIDE FOR OUTREACH ACTIVITIES.—

"(1) IN GENERAL.—From the amount allotted to a State under section 2105(b) for a fiscal year, each State shall conduct outreach activities described in paragraph (2).

"(2) OUTREACH ACTIVITIES DESCRIBED.—The outreach activities described in this paragraph include activities to—

"(A) identify and enroll children who are eligible for medical assistance under the State plan under title XIX; and

"(B) conduct public awareness campaigns to encourage employers to provide health insurance coverage for children.

"(b) STATE OPTIONS FOR REMAINDER.—A State may use the amount remaining of the allotment to a State under section 2105(b) for a fiscal year, determined after the payment required under section 2105(c)(1)(A), in accordance with section 2107 or the State medicaid program (but not both). Nothing in the preceding sentence shall be construed as limiting a State's eligibility for receiving the 5 percent bonus described in section 2105(c)(2)(A)(i) for children covered by the State through expanded eligibility under the medicaid program under title XIX before the date of enactment of this title.

"(c) PROHIBITION ON USE OF FUNDS.—No funds provided under this title may be used to provide health insurance coverage for—

"(1) families of State public employees; or

"(2) children who are committed to a penal institution.

"(d) USE LIMITED TO STATE PROGRAM EXPENDITURES.—Funds provided to an eligible State under this title shall only be used to carry out the purpose of this title (as described in section 2101), and any health insurance coverage provided with such funds may include coverage of abortion only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.

"(e) ADMINISTRATIVE EXPENDITURES.—

"(1) IN GENERAL.—Not more than the applicable percentage of the amount allotted to a State under section 2105(b) for a fiscal year, determined after the payment required under section 2105(c)(1)(A), shall be used for administrative expenditures for the program funded under this title.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to a fiscal year is—

"(A) for the first 2 years of a State program funded under this title, 10 percent;

"(B) for the third year of a State program funded under this title, 7.5 percent; and

"(C) for the fourth year of a State program funded under this title and each year thereafter, 5 percent.

"(f) NONAPPLICATION OF FIVE-YEAR LIMITED ELIGIBILITY FOR MEANS-TESTED PUBLIC BENEFITS.—The provisions of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613) shall not apply with respect to a State program funded under this title.

"(g) AUDITS.—The provisions of section 506(b) shall apply to funds expended under this title to the same extent as they apply to title V.

"(h) REQUIREMENT TO FOLLOW STATE PROGRAM OUTLINE.—The State shall conduct the program in accordance with the program outline approved by the Secretary under section 2104.

"SEC. 2107. STATE OPTION FOR THE PURCHASE OR PROVISION OF CHILDREN'S HEALTH INSURANCE.

"(a) STATE OPTION.—

"(1) IN GENERAL.—An eligible State that opts to use funds provided under this title under this section shall use such funds to provide FEHBP-equivalent children's health insurance coverage for low-income children who reside in the State.

"(2) PRIORITY FOR LOW-INCOME CHILDREN.—A State that uses funds provided under this title under this section shall not cover low-income children with higher family income without covering such children with a lower family income.

"(3) DETERMINATION OF ELIGIBILITY AND FORM OF ASSISTANCE.—An eligible State may establish any additional eligibility criteria for the provision of health insurance coverage for a low-income child through funds provided under this title, so long as such criteria and assistance are consistent with the purpose and provisions of this title.

"(4) AFFORDABILITY.—An eligible State may impose any family premium obligations or cost-sharing requirements otherwise permitted under this title on low-income children with family incomes that exceed 150 percent of the poverty line. In the case of a low-income child whose family income is at or below 150 percent of the poverty line, limits on beneficiary costs generally applicable under title XIX apply to coverage provided such children under this section.

"(b) NONENTITLEMENT.—Nothing in this section shall be construed as providing an entitlement for an individual or person to any health insurance coverage, assistance, or service provided through a State program funded under this title. If, with respect to a fiscal year, an eligible State determines that the funds provided under this title are not sufficient to provide health insurance coverage for all the low-income children that the State proposes to cover in the State program outline submitted under section 2104 for such fiscal year, the State may adjust the applicable eligibility criteria for such children appropriately or adjust the State program in another manner specified by the Secretary, so long as any such adjustments are consistent with the purpose of this title.

"SEC. 2108. PROGRAM INTEGRITY.

"The following provisions of the Social Security Act shall apply to eligible States under this title in the same manner as such provisions apply to a State under title XIX:

"(1) Section 1116 (relating to administrative and judicial review).

"(2) Section 1124 (relating to disclosure of ownership and related information).

"(3) Section 1126 (relating to disclosure of information about certain convicted individuals).

"(4) Section 1128 (relating to exclusion from individuals and entities from participation in State health care plans).

"(5) Section 1128A (relating to civil monetary penalties).

"(6) Section 1128B (relating to criminal penalties).

"(7) Section 1132 (relating to periods within which claims must be filed).

"(8) Section 1902(a)(4)(C) (relating to conflict of interest standards).

"(9) Section 1903(i) (relating to limitations on payment).

"(10) Section 1903(m)(5) (as in effect on the day before the date of enactment of the Balanced Budget Act of 1997).

"(11) Section 1903(w) (relating to limitations on provider taxes and donations).

"(12) Section 1905(a)(B) (relating to the exclusion of care or services for any individual who has not attained 65 years of age and who is a patient in an institution for mental diseases from the definition of medical assistance).

"(13) Section 1921 (relating to state licensure authorities).

"(14) Sections 1902(a)(25), 1912(a)(1)(A), and 1903(o) (insofar as such sections relate to third party liability).

"(15) Sections 1948 and 1949 (as added by section 5701(a)(2) of the Balanced Budget Act of 1997).

"SEC. 2109. ANNUAL REPORTS.

"(a) ANNUAL STATE ASSESSMENT OF PROGRESS.—An eligible State shall—

"(1) assess the operation of the State program funded under this title in each fiscal year, including the progress made in providing health insurance coverage for low-income children; and

"(2) report to the Secretary, by January 1 following the end of the fiscal year, on the result of the assessment.

"(b) REPORT OF THE SECRETARY.—The Secretary shall submit to the appropriate committees of Congress an annual report and evaluation of the State programs funded under this title based on the State assessments and reports submitted under subsection (a). Such report shall include any conclusions and recommendations that the Secretary considers appropriate.".

(b) CONFORMING AMENDMENT.—Section 1128(h) (42 U.S.C. 1320a-7(h)) is amended by—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period and inserting ", or"; and

(3) by adding at the end the following:

"(4) a program funded under title XXI.".

SEC. ___. APPLICABILITY.

If, on the date of enactment of this Act, the Social Security Act contains a title XXI, the amendments made to the Social Security Act by this title shall not take effect, except that amounts appropriated under such title XXI for a fiscal year shall be increased by the amounts that would have been appropriated for such fiscal year under section 2103 of the Social Security Act, as added by this title.

JEFFORDS AMENDMENT NO. 522

Mr. JEFFORDS proposed an amendment to the bill, S. 949, supra; as follows:

Beginning on page 168, line 8, strike all through page 174, line 19, and insert the following:

"SEC. 1400B. TRUST FUND FOR DC SCHOOLS.

"(a) CREATION OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Trust Fund for DC Schools', consisting of such amounts as may be appropriated or credited to the Fund as provided in this section.

"(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

"(1) IN GENERAL.—There are hereby appropriated to the Trust Fund for DC Schools amounts equivalent to the revenues received in the Treasury from the applicable percentage of the income taxes imposed by this chapter after December 31, 1997, and before January 1, 2003, on individual taxpayers during their residency in the District of Columbia.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means the percentage necessary, as determined by the Secretary, to result in revenues equal to the net losses in revenues to the Treasury that would have occurred during the period beginning after December 31, 1997, and before January 1, 2003, if the section identified as section 1400B of the Internal Revenue Code of 1986 as added by section 601 of S. 949, 105th Congress, as reported by the Committee on Finance of the Senate, had been enacted.

"(3) TRANSFER OF AMOUNTS.—The amounts appropriated by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Trust Fund for DC Schools on the basis of estimates made by the Secretary of the amounts referred to in such paragraph. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(c) EXPENDITURES FROM FUND.—

"(1) IN GENERAL.—Amounts in the Trust Fund for DC Schools shall be available, without fiscal year limitation, in an amount not to exceed $70,000,000 for the period beginning after December 31, 1997, and ending before January 1, 2008, for qualified service expenses with respect to State or local bonds issued by the District of Columbia to finance the construction, rehabilitation, and repair of schools under the jurisdiction of the government of the District of Columbia.

"(2) QUALIFIED SERVICE EXPENSES.—The term 'qualified service expenses' means expenses incurred after December 31, 1997, and certified by the District of Columbia Control Board as meeting the requirements of paragraph (1) after giving 60-day notice of any proposed certification to the Subcommittees on the District of Columbia of the Committees on Appropriations of the House of Representatives and the Senate.

"(d) REPORT.—It shall be the duty of the Secretary to hold the Trust Fund for DC Schools and to report to the Congress each year on the financial condition and the results of the operations of such Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

"(e) INVESTMENT.—

"(1) IN GENERAL.—It shall be the duty of the Secretary to invest such portion of the Trust Fund for DC Schools as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

"(A) on original issue at the issue price, or

"(B) by purchase of outstanding obligations at the market price.

"(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Trust Fund for DC Schools may be sold by the Secretary at the market price.

"(3) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale

or redemption of, any obligations held in the Trust Fund for DC Schools shall be credited to and from a part of the Trust Fund for DC Schools."

ALLARD AMENDMENT NO. 523

Mr. ALLARD proposed an amendment to the bill, S. 949, supra; as follows:

On page 397, strike section 881.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON INDIAN AFFAIRS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, June 25, 1997 at 2:00 p.m. in room 562 of the Dirksen Senate Building to conduct an Oversight Hearing on the Administration's proposal to restructure Indian gaming fee assessments.

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

COMMITTEE ON THE JUDICIARY

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, June 25, 1997 at 2:00 p.m. to hold a hearing on: "Judicial Nominations."

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, June 25, 1997 beginning at 2:00 p.m. until business is completed, to receive testimony on Campaign Finance—Are Political Contributions Voluntary: Union Dues and Corporation Activity.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. DOMENICI. The Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing to take testimony from the General Accounting Office, the Department of Veterans Affairs, and the Department of Defense relative to the GAO reort "Gulf War Illnesses: Improved Monitoring of Clinical Progress and Re-examination of Research Emphasis Needed". The hearing will be held on June 25, 1997, at 9:30 a.m., in room 216 of the Hart Senate Office Building.

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

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Science, Technology and Space Subcommittee of the Committee on Commerce, Science and Transportation be authorized to meet on Wednesday, June 25, 1997 at 2:00 p.m. on U.S. Fire Administration and Office of the Associate Administrator for Commercial Space Transportation—FY 98 Budget.

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

COMMITTEE ON ARMED SERVICES

Mr. ROTH. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in Executive Session today at 5:30 p.m. in order to vote to report out routine military nominations.

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

TRIBUTE TO COL. RANDALL INOUYE, COMMANDER, BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS

• Mr. SARBANES. Mr. President, I rise today to pay tribute to Col. Randall Inouye, Commander of the Baltimore District, U.S. Army Corps of Engineers. Col. Inouye is moving on to a new assignment in the Pentagon and I want to express my appreciation for the fine work that he has done.

In the 3 short years in which Col. Inouye has commanded the Baltimore District he has proved to be one of the best and most accomplished District Engineers. During his tenure in Baltimore, the colonel helped spearhead Maryland's flood mitigation task force—a Federal, State, and local partnership effort to help communities rebuild after the devastating floods of 1996. This task force is now being used as a model for similar efforts throughout the nation. Under his leadership, the Poplar Island restoration project—the largest habitat restoration project ever undertaken in the United States—was initiated. Poplar Island is the first large-scale project to make beneficial use of dredged material and will help protect and promote the recovery of the Chesapeake Bay while at the same time preserving the vitality of the Port of Baltimore. Similarly, Col. Inouye was responsible for many other important environmental restoration and water resource development activities in the region, including the successful restoration of 32 acres of emergent tidal wetlands at Kenilworth Marsh—the largest and last remaining freshwater tidal wetland on the Anacostia; the Maryland coastal bays initiative; and the Tolchester and Brewerton Channel improvement projects, to name only a few. As District Engineer, Col. Inouye also directed and oversaw the succeessful completion of numerous military construction projects in Maryland from the Army's Research Labs at Aberdeen Proving Ground and Adelphi to the Defense Information School at Fort Meade to the new Walter Reed Army Institute of Research at Forest Glen.

I came to know Col. Inouye shortly after he assumed command of the Baltimore District and have had the privilege of working closely with him over the past three years on many initiatives throughout Maryland, including those mentioned above. In every instance, the Colonel has distinguished himself for his responsiveness and commitment to getting the job done. He has set a new standard of excellence and accomplishment for other District Engineers to emulate.

In recognition of his outstanding service to the Baltimore District and other commands, Col. Inouye has received numerous awards and commendations including the Legion of Merit, the Meritorious Service Medal and the Army Commendation Medal. But perhaps more importantly, his efforts have earned him the respect and admiration of everyone with whom he has worked. I know that many Marylanders join me in expressing appreciation for his contributions toward improving the quality of life in our State and in wishing him the best in his new endeavors.•

HONORING DR. JAN KARSKI

• Mr. LAUTENBERG. Mr. President, I rise today to honor an individual who truly personifies courage and compassion. When the dark night of Nazi occupation descended across most of Europe, and the spark of humanity was crushed beneath Gestapo jack boots, Dr. Jan Karski knew that he couldn't just curse the darkness.

Dr. Karski was a wartime courier for the Polish underground, and he is often credited as being the first person to alert the Allies about the existence of the death camps and the extermination of the Jews.

Karski's secret work began in 1939. He was riding in a cattle car, with other Polish soldiers, heading for forced labor in Germany, when he jumped from the window and joined the underground movement. Between the winter of 1939 and the early summer of 1940, Karski was sent by the underground back and forth from Warsaw to France on successful missions as a courier. However, in 1940 he was arrested by the Nazis in Slovakia and brutally tortured. Eventually, he was rescued by the Polish underground and continued to fight for freedom.

Karski clandestinely surveyed conditions in the Warsaw Jewish Ghetto and even volunteered to be smuggled into the Belzic death camp to gather evidence of the Nazi's extermination policies. In 1943, he was sent by the Polish government-in-exile to inform American officials about the situation in his native country, among the prominent individuals he met with was President Roosevelt. In fact, shortly after meeting with Karski, Roosevelt ordered the creation of the American Refugee Board, an organization whose main task was to protect Jewish escapees and place them in the United States.

After the war, when Poland traded Nazi totalitarianism for Soviet totalitarianism, Karski moved to the United States. He earned his Ph.D. in Georgetown and has been teaching at the university since 1952. Among other honors, Karski has received the highest Polish military decoration, a special citation by the United Nations, and was declared a "Righteous Gentile Among Nations" by the state of Israel.

Mr. President, the great humanitarian Albert Schweitzer once noted, "A great person helps others, but a good person touches the lives of others." If that's true, then Dr. Karski proves that good and great can exist in the same individual. He continually demonstrated that one person can make a difference, and at a time when many were content to curse the darkness, he kept the candles of hope and humanity burning. Undoubtedly, he is an example for our times and a hero for the ages.•

FAIR PLAY ACT

• Ms. SNOWE. Mr. President, I am extremely pleased to note that this week we celebrate the 25th anniversary of title IX, landmark legislation that has played an enormous role in leveling the playing field—literally—for women in sports. I was also pleased last week to join my colleagues, Senator MOSELEY-BRAUN, KENNEDY, and MIKULSKI, to mark this anniversary by introducing the Fair Play Act, legislation which will take the next important step in increasing educational and athletic opportunities for young women.

There is no question that sports are just as important an activity for girls and women as they are for boys and men. Through sports, girls and women can get a feel for the positive competitive spirit which was, until recently, the almost exclusive property of boys and men. Women and girls who participate in sports develop self-confidence, dedication, a sense of team spirit, and an ability to work under pressure—traits which enhance all aspects of their lives. In fact, 80 percent of women identified as key leaders in Fortune 500 companies have sports backgrounds.

When I was a young girl growing up, girls and women did not have much opportunity to participate in competitive athletics. But the enactment of title IX of the Education Amendments of 1972 changed all that, by requiring that women be afforded equitable opportunities to participate in high school and college athletics. Since title IX's enactment, women and girls across the Nation have met the challenge of participating in competitive sports in record numbers. Since 1972, the number of college women participating in competitive athletics has gone from fewer than 32,000 to over 110,000 in 1994–95. Before title IX, fewer than 300,000 high school girls played competitive sports. By 1996, that number had climbed to almost 2.4 million.

Today, women across America are taking bats, lacrosse sticks, and javelins to the glass ceiling—shattering the myth that there are "men's" sports and there are "women's" sports. But a quarter-century after title IX's enactment, there is still much more to be done. According to a recent NCAA study, only 23 percent of all current college athletic budgets are allocated to women, and women receive only 38 percent of athletic scholarship dollars. Only 27 percent of funding spent to recruit new athletes target women. In high-school athletic competitions, there are two boys to every one girl participating.

The Fair Play Act, which we introduced to mark the 25th anniversary of Title IX, is designed to strengthen this important legislation and therefore enhance women's athletic and educational opportunities. Under current law, colleges and universities are required to compile information about their men's and women's athletic programs, including participation rates, operating and recruitment budgets, the availability of scholarships, revenues generated from athletic programs, and coaches' salaries. They are required to update this information annually and make it available to prospective students and others upon request. Because there is no central repository for this information, however, it is difficult for students to obtain and evaluate it or put it into context.

The Fair Play Act is designed to correct this by directing colleges and universities to send information they already collect on their men's and women's athletic programs to the Department of Education, and directs the department to publish an annual report and make this information widely available by distributing the annual report to high schools, and establishing a toll free number and a web site. This bill will give students and families access to the kind of information they need to make informed decisions about where to go to school, and will help the Department of Education enforce title IX compliance in the area of athletics.

The first 25 years of title IX have been an enormous success. Now, it's time for us to help millions of other girls and women get off the bleachers, the sidelines, and the viewing stands and onto the fields, the pitchers' mounds, and the courts. I urge my colleagues to support this legislation, and look forward to seeing what the next 25 years hold for women's accomplishments in sports.•

MARVIN H. POPE

• Mr. MOYNIHAN. Mr. President, our age has lost a scholar of epic achievement and range with the passing of Marvin H. Pope of the Yale Divinity School. A Biblical scholar of unsurpassed originality and range, he died at age 80 in the First Church of Round Hill, Greenwich, CT, just after he and his wife Ingrid had read a passage from the Bible for the congregation. He was an effervescent member of the American Schools of Oriental Research, where he will be mourned as well as celebrated.

As was said about Job, it could be said of Marvin H. Pope: ". . . thou hast blessed the work of his hands, and his substance is increased in the land." I ask that an an article on Marvin Pope, from the New York Times be printed in the RECORD.

The article follows:

[From the New York Times, June 1997]

MARVIN POPE, 80, PROFESOR AND AUTHORITY ON ANCIENT UGARIT

(By Holcomb B. Noble)

Marvin H. Pope, a retired Yale professor who was one of the world's leading authorities on Ugarit, the ancient city in Syria where excavations shed important light on the ancient Scriptures, died on Sunday at First Church of Round Hill in Greenwich, Conn. He was 80.

He and his wife had just finished reading passages from the Bible to the congregation and returned to their pew when he collapsed.

Mr. Pope was a professor of Near Eastern languages and civilizations from 1949 to 1986 and taught at the Yale Divinity School and in the religious studies department.

In addition, he helped prepare the first major revision of the King James Version of the Bible, the Revised Standard Version, in the 1940's. In the 1980's he worked with others advising the National Council of Churches on the New Revised Standard Version, which removed some traditional language regarded as sexist. These are the two versions used in most Protestant churches.

Many of Mr. Pope's contributions to the study of the Hebrew text of the Bible and to modern English translations stemmed from a day in 1928 when a farmer plowing a field in northern Syria struck what he thought was a stone. It emerged, instead, as part of the extensive remains, uncovered by archeologists over the next year, of a cosmopolitan city on the Mediterranean that had thrived in 2000 B.C. but had been ransacked and burned in about 1200 B.C.

Among the discoveries were Ugaritic art and clay tablets whose language was similar to biblical Hebrew, of which Mr. Pope, over the years, became a major translator. They added significant new meanings, nuances and detail to the early writings of the Old Testament and the culture of their time. The tablets were traced to a period from 1500 B.C to 1180 B.C.

Mr. Pope's work on the tablets resulted in his retranslations from the ancient Hebrew of the entire books of Job and the Song of Songs, and a lengthy commentary about them both, published in 1973 and 1977 by the Anchor Bible Series. Robert R. Wilson, a professor of religious studies at Yale, said those two translations were "the brilliant works of a master scholar" and added to the general understanding of an age and its poetry.

Scholars said that one of the difficulties in translating the early tablets was that the words had been crammed onto the surfaces with less regard for their legibility than whether they would fit. It was often difficult

to determine, as a result, which line of poetry followed which. Mr. Pope was able to arrange the lines in proper sequence and poetic form.

Another difficulty was that the meanings of the first lines of the verses tended to be echoed in the second lines but with rarer language. Mr. Pope was one of the few able to capture the meaning of the rarer passages.

He visited the site of the 1929 excavations, near the modern town of Latakia, north of Damascus, though most of his studies took place in Paris, where the hundreds of tablets were put on display.

A man whose wit made him popular among generations of Yale students, he said that one of his findings was that Baal, chief god of the Ugarits, was not always chief, as scholars had thought, but had maneuvered to take over from the god El, whom he kicked further upstairs.

Marvin Hoyle Pope was born on June 23, 1916, in Durham, N.C., the son of Charles and Bessie Cleveland Sorrell Pope. He earned a bachelor's degree in 1938 at Duke University, where he was signed up by mistake for a course in Hebrew. He remained in the course, which led him to a master's degree in Semitic languages and literature in 1939. He received a doctorate from Yale in 1949.

His first wife, Helen Thompson Pope, died in 1979.

In addition to his wife, Ingrid Bloomquist Pope, he is survived by a son, Marvin Jr., and a daughter, Beverly, both of New Haven; three stepchildren, Dennis Bloomquist of Great Falls, VA, Diane B. Connelly of Shaker Heights, OH, and Laurel B. Shields of Austin, TX.; a sister, Mary Gladys Hodges of Durham, NC and eight grandchildren.•

BIOMATERIALS ACCESS ASSURANCE ACT

• Mr. ABRAHAM. Mr. President, I rise to speak today on Senate bill 364, the Biomaterials Access Assurance Act, which I am proud to cosponsor. I have long been a proponent for civil justice reform and other legislative measures relating to product liability. As an original cosponsor of product liability reform legislation (S. 648), I have long supported the biomaterials liability reform provisions contained in it. I am also pleased to cosponsor those provisions as a separate measure, although in my view we need both general product liability reforms and biomaterials liability reforms.

This Nation's tort system is in dire need of repair. To maintain the status quo is not only costing consumers millions of dollars each year but also many lives will be lost if change does not occur soon. The Biomaterials Access Assurance Act approaches the subject of tort reform from a different perspective—the perspective of millions of Americans who face life-threatening diseases. These are the people who have the most to gain and everything to lose if Congress refuses to listen to their pleas.

The purpose of this act is straightforward. S. 364 attempts to gain a foothold on our legal system's slippery slope by shielding companies who supply raw materials to manufacturers of life-saving medical devices. The Biomaterials Access Assurance Act will prevent the impending shortage of biomaterials suppliers by permitting these companies to be quickly dismissed from a lawsuit provided they had no part in the manufacture or selling of a device and all contractual specifications had been met. Currently it is common practice for suppliers to be dragged into costly litigation even though these companies are not involved in the creation or marketing of a product. In fact, in almost every case thus far, biomaterials suppliers are not found liable in these type of lawsuits. S. 364 squashes illegitimate attempts for windfall profits and more importantly, ensures these life-saving medical devices will be in abundant supply.

Right now, the escalating expense suppliers unfairly incur defending their product continues to drive many out of the U.S. market. As a result, it is becoming increasingly more difficult for manufacturers of medical devices to find biomaterials suppliers with the raw materials necessary to produce their products. Replacement heart valves, pacemakers, and brain shunts are but a small selection of the devices which rely on raw material suppliers.

My colleague from Arizona, Senator MCCAIN, mentioned in an earlier statement that 13 biomaterial supply companies have been driven out of business due to concerns about the risk of unwarranted litigation. Sadly, the people whose lives depend on these raw materials for survival are the ones who will pay the ultimate price. Unfortunately a family living in my home State of Michigan illustrates my point.

Recently Mr. And Mrs. Traxler of Fremont, MI, told me of their family's desperate need to find help for their young daughter, Sarah. The parents explained to me when Sarah was 2 months old she experienced a traumatic brain injury. As a result of the injury, Sarah now requires a shunt that drains fluid away from her brain.

The shunt will need replacing soon and her parents are deeply worried that if medical manufacturers are forced into bankruptcy, the shunts keeping Sarah alive will no longer be available. In their letter, Sarah's parents explain, "Because of the recent lawsuits involving breast implants and other medical devices, many biomaterials manufacturers have discontinued supplying the raw materials used to make medical devices. Because the sale of these raw materials represent such a small percentage of their total revenues, they do not feel it is worth the risk of having to defend themselves in court and they have discontinued supplying these materials to medical device manufacturers."

This is a sad commentary on the state of this Nation's legal system. Clearly, reform is needed and must be implemented soon to help protect the life of Sarah Traxler and countless others like her. For this reason, I ask my colleagues many of whom are parents themselves, to support this critical legislation.•

TRIBUTE TO KARIN ELKIS WEINSTEIN

• Mr. LAUTENBERG. Mr. President, today I want to congratulate Karin Elkis, who is being honored on June 30, 1997 as the Sid Levy Memorial Volunteer of the Year by the Jewish Community Center of South Jersey. This annual award is presented to the volunteer who best captures the JCC's commitment to community service and self-giving. Karin is in charge of the Lautenberg Senate office in South Jersey and it is of no surprise to me that she is receiving this honor. Karin gets more done in one hour than most people accomplish in a single day. She is energetic, caring, selfless, and always thinking about others. She brings the same commitment and concern to her volunteer activities that she brings to her work to serve the people of New Jersey.

Despite a more than full time job, three young children, and other family responsibilities, Karin has found time to make a major contribution to the JCC by chairing its Festival of Arts, Books and Culture this year. Further, she's served as a liaison to the Early Childhood Department, a member of the Budget Committee, chaired the Camp Committee and been a member of the Executive Committee. If I listed all of her activities at the JCC over the past few years, this statement would be longer than a James Michener novel.

Through her work, Karin has touched the lives of many. She is truly an extraordinary person, with many talents, enormous energy and drive, and a compassionate heart. I am proud to have Karin on my staff and to include her as a friend. She makes an enormous contribution to the South Jersey community, through her work as a Senate employee and her work as a volunteer.

Mr. President, I again congratulate Karin on this well deserved recognition. I know that she will continue to serve the people of New Jersey in many ways for years to come and that our pride in her accomplishments will continue to be justified.•

CLEANING THE AIR

• Mr. LEAHY. Mr. President, for the past 5 months, we have been engaged in a troubling debate on how best to protect the health of our children, our elderly and our environment. Since the Environmental Protection Agency announced the proposed new standards for air quality, we have witnessed an unprecedented campaign by industry to block these new standards. Opponents instantly attacked the goals rather

than sitting down to work with Congress and the administration on how to achieve these goals in a reasonable and cost-effective timeframe. I applaud EPA Administrator Carol Browner for standing up against the onslaught of industry backlash on the new standards. Today, President Clinton showed equal commitment by supporting the thrust of Administrator Browner's recommendation. This decision will reduce the smog and soot that drifts into Vermont from outside the State. I congratulate President Clinton for standing up for the health of our children and our environment. We can now begin the process of finding the most cost-effective means of implementing these standards.

In Vermont, we recognize the benefits of high environmental standards. Over the years, conservationists and the business community have worked together to protect the environment. Vermonters know that a healthy environment promotes a healthy economy. Yet despite our commitment, Vermont and other Northeastern States have become the dumping ground for pollution that seeps across our borders each night with the wind. The new ozone standard makes the biggest pollutors accountable and will reduce the burden on States in the Northeast in their battle to maintain our high standards for air quality. Acid rain taught us that tough State environmental standards were not enough to protect us. We saw some of our healthiest forests die off from pollution borne from outside our region. This situation demands tough national environmental standards to ensure a level playing field.

The new air standards will address two central issues: Where the smog and soot is landing and how to use new scientific evidence to continue improving efforts to protect public health. We learned from the acid rain debate that emissions from dirty coal-fired powerplants in the Midwest can be transported farther than 500 miles. More than 40 percent of the pollution in Vermont is from outside the state. We also know that utility restructuring will encourage increased generation at the powerplants in the Midwest. The new standards proposed by EPA will reduce the smog and soot that drifts into Vermont from these powerplants. Today's decision is a clear victory for the Northeast because we now have a standard that will reduce air pollution at its source.

Since the passage of the Clean Air Act we have made considerable strides in reducing some pollutants. The level of lead pollution we and our children breathe today is one-tenth what it was a decade ago. That figure by itself is a tribute to the success of the original Clean Air Act. If we learned one thing from the acrimonious debate in Congress last year on environmental issues, it is that the American people do not want to halt the progress we have made and merely rest on our environmental laurels. Americans want to keep moving forward on cleaning up our environment. Unfortunately, as I listen to the debate on the Clean Air Act this Congress, I fear that we are not heeding their call. Instead of looking at ways to strengthen the Clean Air Act, we are trying to undercut the existing regulations.

Today, the President recognized the 130 million Americans in 170 major cities who continue to breathe unhealthy air. Congress should listen as well and approve the standards. I will work with my colleagues in the Senate to oppose efforts to block the implementation of these new standards. Members of the House of Representatives have already launched their attack on the standards by introducing legislation to block the President's decision and weaken these standards. It is important to Vermont and to the Nation that we set aside the acrimonious debate that occurred on these standards and work together to develop a cost-effective implementation plan.

The recommendations of the Ozone Transport Assessment Group that were approved by 32 States lay out several concrete steps to clean up our air in the Northeast. I challenge Administrator Browner and the administration to move quickly on these recommendations. In particular, I want Congress and the administration to look at what probably has become one of the largest loopholes in the Clean Air Act: Allowing the dirtiest power plants to continue to operate with vastly inadequate pollution controls. The need to go back and close this loophole now—in this session of Congress—assumes greater urgency because of the deregulation of the electric utility industry.

Tomorrow's United Nations conference on the environment reminds us that we share the air, the water and our planet. There can be no greater legacy that we leave behind for our children and grandchildren than a society secure in its commitment to a healthy and environmentally sound future.●

BLOOMINGTON-NORMAL'S "NOT IN OUR TOWN" PROGRAM

● Mr. DURBIN. Mr. President, I rise today to recognize the people of Bloomington-Normal, IL, for their efforts to stem the growth of hate crimes and racial intolerance. Their commitment to taking proactive measures to prevent division and promote understanding serves as a model for communities across the Nation.

Inspired by the film "Not in Our Town," which tells the story of how Billings, MT, joined together in response to rampant hate crimes, the citizens of Bloomington-Normal created their own "Not in Our Town" program. They were not, however, responding to hate crimes or clear racial unrest. Instead, these Twin Cities chose to create a vehicle for awareness and prevention, to stop hate crimes before they started. This type of program is without a doubt ahead of its time.

Designed to increase public knowledge about the threat of racial violence, the program is carried out in a variety of ways. Adult and youth discussions and forums are regularly held. All city entrances are marked with "no racism" signs. Many city workers wear "Not in Our Town" buttons, and all city vehicles are marked with "Not in Our Town" bumper stickers. Clearly, it's difficult to be in Bloomington-Normal without knowing that prejudice and violence will not be accepted. In addition to these efforts, the city has also sponsored two anti-racism marches, which give citizens the opportunity to demonstrate their commitment to the program and its goals not only to each other, but to surrounding communities as well.

Perhaps most vital to the program's success are its youth discussion groups. As one teen noted, "History is going to repeat itself if the youth aren't taught about the Holocaust and slavery * * * they won't know any better." "Not in Our Town" provides young people a way to learn how local events are part of national issues, and more importantly, how community action can really make a difference for people everywhere.

As President Clinton begins a new initiative to have a national conversation about race and diversity, Bloomington-Normal has truly taken the lead in providing a model that all Americans can follow when organizing their home towns to discuss and confront what is perhaps our most important issue.●

THE SLAUGHTER OF REFUGEES IN CONGO MUST CEASE

● Mr. BIDEN. Mr. President, the government of the Democratic Republic of Congo must bring to an immediate end the systematic search and slaughter of Rwandan refugees, or else face isolation from the international community. Recent media reports allege the methodical execution of Rwandan refugees still hiding in the former Zaire by the Congolese military. Unless these atrocities are halted, Mr. Kabila should not expect ready support in the United States for his efforts to rebuild his country.

News reports the last several weeks have alleged the existence of mass grave sites of Rwandan refugees. As of yet, we do not know for certain if these reports are accurate, and if so, by whose hands the refugees were slaughtered. A team of United Nations investigators arrived in Congo last week to initiate an investigation of these

claims. Media reports of Congolese government directives to hinder this investigation, if accurate, are intolerable. The government of Congo must bring to an immediate end the persecution of the remaining Rwandan refugees, and actively assist the U.N. in its efforts to locate and repatriate these Rwandan nationals.

According to reports of the United Nations and various nongovernmental organizations, thousands of Rwandan refugees continue to hide in the Democratic Republic of Congo. The U.N. High Commissioner for Refugees estimates that between 200,000 and 250,000 refugees are still missing in Congo. While the actual number may be uncertain, what is clear is that a significant number of Rwandan refugees remain within Congolese borders.

These refugees consist mostly of Rwandan Hutus who fled their country after the 1994 genocide that took the lives of an estimated 800,000 Tutsis and moderate Hutus. Despite the large numbers of refugees who have already returned to their homes in Rwanda, a considerable number remain in Congo, many of them women and children. Many are exhausted and weak from almost three years of constant movement, malnutrition and illness.

Clearly there exists the very real likelihood that among the Rwandan refugees who remain in Congo are those responsible for the 1994 Rwandan genocide. If so, they should be returned to Rwanda and held accountable for their crimes before their own countrymen at the International War Crimes Tribunal. There is absolutely no justification for the execution of any Rwandan refugee in Congo.

Unfortunately, reports of persecution of Rwandan refugees in Kabila's Congo are not entirely new. Such claims have been associated with the Alliance of Democratic Forces for the Liberation of Congo since its early battlefield victories in eastern Zaire. However, Laurent Kabila earlier this month in a meeting with Ambassador Bill Richardson committed himself to assist international efforts to account for and repatriate Rwandan refugees in his country. The successful resolution of the refugee issue in Congo has serious consequences for the future of his country.

Failure to follow through on this commitment seriously calls into question the credibility of the Kabila government to deliver on its promises to the world and its own people. The U.N. team in Congo so far has not encountered any difficulties. If Mr. Kabila expects to receive the support of the international community, it is imperative that he fulfill his earlier pledge and secure the access the United Nations needs to locate and repatriate the refugees. If Mr. Kabila does not live up to his existing commitments on the issue of the Rwandan refugees, it's unclear what confidence there will be for his promises of democracy and peace for the Congolese people.•

SENIOR CITIZENS' MEDICARE FREEDOM TO CONTRACT ACT

• Mr. KYL. Mr. President, I rise as the sponsor of the Senior Citizens Medicare Freedom to Contract Act. The act would provide a technical correction in the Medicare Technical Corrections Act of 1994 (42 USCS section 1395, et. seq.), which was signed into law in November 1995.

The Medicare Technical Corrections Act of 1994 contained a subtle—and, based on the CONGRESSIONAL RECORD, clearly unintended—change in statutory language.

The Health Care Financing Administration [HCFA] interprets this change as expanding existing restrictions on private payments in Medicare cases in which claims are filed, to all cases involving Medicare enrolled individuals, regardless of whether a claim is filed.

If HCFA imposes this interpretation through regulations reportedly now being drafted, HCFA would have the authority to completely prohibit Medicare enrolled who do not submit reimbursement claims to HCFA, and who do not have claims submitted on their behalf, and who are willing to pay their own bills in full—from paying non-Medicare physicians out of pocket for needed Medicare-covered services.

Even without the regulations, the view of HCFA is clear.

HCFA Administrator Bruce Vladek states that the "law requires that physicians submit claims on behalf of beneficiaries. Violations of these requirements are subject to sanctions such as civil monetary penalties and exclusion from Medicare."

Tom Ault, HCFA Director of Policy Development, has said that "for doctors to implement private contracts is illegal."

HCFA's Director of the Bureau of Policy, Kathleen Buto, states that: A physician can choose not to treat Medicare beneficiaries. However, once a physician renders services to a Medicare beneficiary, he or she is subject to Medicare's requirements and regulations, regardless of the physician's participation as a Medicare provider. A physician's failure to comply with the claim filing requirement violates Medicare law and subjects him or her to possible monetary penalties.

Clearly, this change does not reflect the intent of the Congress.

If HCFA's interpretation is imposed by regulation, the result will be that seniors not have the right to choose treatments for which they can afford to pay in full to a non-Medicare participating physician.

This will occur due to the fact that many physicians and other providers are unwilling to participate in Medicare since Medicare reimbursement frequently covers only 70 to 75 percent of the actual cost of care.

Under HCFA's proposed regulations, physicians and other providers, who do not participate in Medicare, would be prohibited from accepting private payments for their services.

Congress clearly never intended this result.

Nor does this change reflect the will of the American people.

In a November 5, 1996, Wirthlin Worldwide Poll, 60 percent believe that Americans should be able to add their own money to Government payments in order to get unrationed health services.

Surely, a law that made it illegal to supplement with private funds the amount received from Social Security would be met with disbelief and derision.

But this is exactly what HCFA has threatened to do, thereby restricting health care choice for seniors.

HCFA's policy would also end the practice of cost shifting, whereby doctors have an incentive to treat more Medicare patients who can't afford to supplement Medicare's low-reimbursement rate with funds from those who choose to pay out of pocket.

To address this problem, senior citizens' medicare freedom to contract amendment simply states: "[n]othing * * * shall prohibit a physician or other provider who does not provide items or services under the Medicare Program from entering into a private contract with a Medicare beneficiary for health services for which no claim for payment is submitted * * * section 1805(a)]."

Because the strategy for enactment has changed, the bill was not introduced in the 105th Congress.

However, in the 104th Congress, this legislation was cosponsored by Senators LOTT, CRAIG, GREGG, COCHRAN, NUNN, HELMS, FAIRCLOTH, BENNETT, KEMPTHORNE, MACK, MURKOWSKI, and INHOFE.

This legislation is strongly supported by the American Medical Association, the Seniors Coalition, the National Right to Life Committee, and several other national health care organizations.

Although this legislation has not yet been scored by the CBO, allowing seniors to pay for services rather than submitting claims to HCFA would plausibly be viewed by the CBO as a budgetary savings for purposes of the Byrd rule.

Furthermore, this legislation calls for HCFA to report to Congress in 2002 regarding the impact of this legislation on Medicare.

Mr. President, I urge my colleagues to support this technical clarification to the Medicare statute.•

THE NEW HAVEN LIGHT

• Mr. LIEBERMAN. Mr. President, I rise today to commemorate the 150th

anniversary of New Haven Light, also known as the Five Mile Point Lighthouse in New Haven, CT. One of New England's most recognizable landmarks, New Haven Light has weathered countless storms yet still stands its silent watch over the waters of Long Island Sound and one of the region's busiest ports.

This year's annual SNET New Haven Harborfest is made all the more special by the anniversary of this beloved landmark and local treasure. I commend those who have worked so hard to preserve New Haven Light and maintain the vitality of New Haven's harbor and Long Wharf district.

This Nation's proud history is forever linked with the important waterways of New England. From the battles in the War for Independence to the economic prosperity of the late 20th century, ports like New Haven Harbor have always played a critical role in the development of the United States. I am proud to stand today and recognize the importance of New Haven Harbor as well as celebrate the milestone anniversary of New Haven Light.•

SOCIAL SECURITY PROPOSAL FROM FORMER SENATORS

• Mr. DURBIN. Mr. President, our friend and former colleague in this body, Paul Simon, has always been outspoken in his leadership on national issues. He continues to contribute to the national debate as the director of the Public Policy Institute at Southern Illinois University in Carbondale.

Paul recently gathered together a number of former Senators to consider the issue of Social Security. The group developed a Social Security proposal which they believe will provide a solvent Social Security system for the next 75 years.

I ask that the letter I received from this group be printed in the RECORD.

The letter follows:

PUBLIC POLICY INSTITUTE, SOUTHERN ILLINOIS UNIVERSITY AT CARBONDALE,

Carbondale, IL, May 28, 1997.

Hon. RICHARD J. DURBIN,
U.S. Senate,
Washington, DC.

DEAR FRIEND: Four of us—your former colleagues, two Republicans and two Democrats—who will not be seeking office again recently met to discuss an issue of great importance to the nation: the future of Social Security's retirement trust fund.

If this problem is not addressed immediately, the difficulties will mount and the long-run picture for both the fund and the confidence in our system of government is grim. The sooner you address this problem, the easier it will be to resolve. Postponing responsible action may be temporarily politically attractive, but history will be harsh on those who ducked when action was needed.

We believe that salvaging Social Security requires these two fundamental changes:

1. Congress should act to correct the Consumer Price Index to reflect reality.

2. Congress should remove the cap on the taxable amount of income covered by Social Security.

The fundamental decisions on the future of Social Security should not be in the hands of technicians, but in the hands of those who are elected by the people to reflect the values of this nation and to make fundamental decisions.

If you accept the recommendations we make, you will provide the nation with a solvent Social Security retirement system, along with a much healthier fiscal base.

If the sacrifices that we call upon people to make are accepted, the trust fund should be secure for the lifetime of our children and grandchildren. That is no small gift to the future of our nation. You are in a position to make that contribution.

This is a time that calls for your leadership. We respectfully ask you to meet this challenge.

JOHN DANFORTH.
PAUL SIMON.
DAVID PRYOR.
ALAN SIMPSON.•

TOM HARTMANN

• Mr. TORRICELLI. Mr. President, I rise today in recognition of Tom Hartmann as he celebrates seventy-five wonderful years. Tom has been a cornerstone of academic life at Rutgers University, and he has made equally significant contributions to political and civic life in the State of New Jersey. It is a pleasure for me to be able to honor his past accomplishments.

Prior to his academic career, Tom served admirably in the United States Marine Corps, flying 89 combat missions in the Pacific as a dive bomber pilot, during World War II. As a result of his efforts, he received the Navy Cross for valor. Upon returning to the United States, Tom transferred his sense of duty to the community. As the Associate Director of the New Jersey Office of Economic Opportunity, and then as Deputy Director of the Governor's commission on the Newark riots, Tom has played an important role in promoting better community relations within the State of New Jersey.

As a Rutgers alumnus, I am proud to say that I have known Tom Hartmann personally. Tom's integrity and commitment to New Jersey's youth are two of the qualities I have admired most. He has worked to pass these same qualities along to the thousands of students who have sat in his classes or listened to him speak. There is no mistaking the sheer joy Tom has brought to his profession.

Without his guidance and counseling, few Rutgers students would be as successful as they are today. This impact has been felt most in the political arena as Rutgers students have sought to make a name for themselves. A number of state and national government officials, including myself, have been the direct recipients of his advice. It is fair to say that Tom has a gift for crystallizing a student's goals and talents in order to make some of the most difficult career decisions easy.

Tom's political astuteness is well-known at all levels of government. He worked closely with my predecessor, Senator Bradley, for many years on some of the most complex issues of our time. I have sought advice from Tom on more than one occasion, and his counsel has been welcome. Tom's ability to assess the political implications of any decision is truly invaluable, and I thank him for the years of support he has provided.

Tom's contributions have done much for the future of New Jersey, and our nation as a whole. I congratulate Tom on a job well done, and I wish him the best for seventy-five more years of happiness.•

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 105–8

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on June 25, 1997, by the President of the United States.

Tax Convention with Swiss Confederation (Treaty Document No. 105–8.)

I further ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith for Senate advice and consent to ratification the Convention Between the United States of America and the Swiss Confederation for the Avoidance of Double Taxation with Respect to Taxes on Income, signed at Washington, October 2, 1996, together with a Protocol to the Convention. An enclosed exchange of notes with an attached Memorandum of Understanding, transmitted for the information of the Senate, provides clarification with respect to the application of the Convention in specified cases. Also transmitted is the report of the Department of State concerning the Convention.

This Convention, which is similar to tax treaties between the United States and other Organization for Economic Cooperation and Development (OECD) nations, provides maximum rates of tax to be applied to various types of income and protection from double taxation of income. The Convention also provides for exchange of information and sets forth rules to limit the benefits of the Convention so that they are available only to residents that are not engaged in treaty shopping.

I recommend that the Senate give early and favorable consideration to this Convention and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 25, 1997.*

AMENDING THE PRESIDENT JOHN F. KENNEDY ASSASSINATION RECORDS COLLECTION ACT OF 1992

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 1553, which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1553) to amend the President John F. Kennedy Assassination Records Collection Act of 1992 to extend the authorization of the Assassination Records Review Board until September 30, 1998.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. GRASSLEY. I ask unanimous consent that the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (H.R. 1553) was considered read the third time, and passed.

CONGRATULATING THE CHICAGO BULLS ON WINNING THE 1997 NATIONAL BASKETBALL ASSOCIATION CHAMPIONSHIP

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 103, submitted earlier today by Senators MOSELEY-BRAUN and DURBIN.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 103) to congratulate the Chicago Bulls on winning the 1997 National Basketball Association Championship, and proving themselves to be one of the best teams in NBA history.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Ms. MOSELEY-BRAUN. Mr. President, on behalf of the City of Chicago, and the State of Illinois, I would like to offer this Senate Resolution with my friend and colleague from Illinois, Senator DICK DURBIN, congratulating the Chicago Bulls for winning the 1997 National Basketball Association Championship.

The Bulls have now repeated, once again, as champions—winning for the fifth time in seven years. This year's triumph expands the team's indisputable place in history.

I say to my colleagues from Utah, Senator HATCH and Senator BENNETT, that their great State of Utah was well represented in this championship series that ended Friday in Chicago. We should all applaud the Utah Jazz for a successful season, and an enormously exciting NBA Finals.

The Bulls have put together an exceptional season and a remarkable dynasty. There should be no doubt that the Bulls are the best team in the 50 year history of the NBA, and that Michael Jordan is the best player. Despite suffering from flu-like symptoms, Jordan scored a dramatic 38 points in game 5 to lift his team to a crucial victory. To say "His Airness" is the Most Valuable Player is truly an understatement.

And each and every Bulls player is a superb individual basketball player. What makes them all so very special is the way they have come together, under Coach Phil Jackson's guidance, to blend their talents as the team, playing in a way that makes each of them better. That is the real hallmark of champions.

The Bulls have become a national and international sensation. They have brought millions together as fans and as admirers. Bulls fever cuts across race and ethnic lines and knows no national boundary. You can go to the far reaches of the globe and see a Bulls hat, or a Michael Jordan jersey.

In recognition of the Bulls' historic accomplishment, it is my pleasure to offer this congratulatory resolution, and I urge my colleagues to swiftly approve its passage.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, that the motion to reconsider be laid upon the table, and that any statements relating thereto be placed in the RECORD as if read at the appropriate place.

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

The resolution (S. Res. 103) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 103

Whereas the Chicago Bulls at 69–13, posted the second best regular season record in the history of the National Basketball Association;

Whereas the Bulls once again roared through the playoffs, sweeping the Washington Bullets and defeating the Atlanta Hawks in 5 games, before beating the Miami Heat in 5 games to return to the NBA Finals for the second straight year;

Whereas the Bulls displayed a potent offense and stifling defense throughout the playoffs before beating the Utah Jazz to win their second consecutive NBA championship their fifth in the last 7 years;

Whereas head coach Phil Jackson and the entire coaching staff skillfully led the Bulls through a 69-win season and a 15–4 playoff run;

Whereas Michael Jordan and Scottie Pippen were again named to the NBA's "All-Defensive First Team", the only 2 players from the same team to be so named, and were each voted to be among the 50 greatest players in NBA history;

Whereas Michael Jordan won his record ninth scoring title, is the sixth leading scorer in NBA history, and was named playoff most valuable player for the fifth time in 5 playoff appearances;

Whereas Scottie Pippen again exhibited his outstanding offensive and defensive versatility, proving himself to be one of the best all-around players in the NBA;

Whereas the quickness, tireless defensive effort, and athleticism of the colorful Dennis Rodman, who won his sixth straight rebounding title, keyed a strong Bulls front line;

Whereas veteran guard Ron Harper, in shutting down many of the league's top point guards throughout the playoffs, demonstrated the defensive skills that have made him a cornerstone of the league's best defense;

Whereas center Luc Longley frustrated many of the all-star caliber centers that he faced in this year's playoffs while at times providing a much needed scoring lift;

Whereas Toni Kukoc, despite injury, displayed his awesome variety of offensive skills in both assisting on, and hitting, several big shots when the Bulls needed them most;

Whereas Steve Kerr, with his laser-like 3-point shooting, sparked many a Bulls rally and hit the championship winning shot in game 6 of the NBA finals;

Whereas the outstanding play of Brian Williams and Jason Caffey, and the tenacious defense of Randy Brown, each of whom came off the bench to provide valuable contributions, were an important part of each Bulls victory;

Whereas Jud Buechler and Robert Parish provided valuable contributions throughout the season and the playoffs, both on and off the court, at times giving the Bulls the emotional lift they needed; and

Whereas the regular season contributions of injured center Bill Wennington, forward Dickey Simpkins, and rookie Matt Steigenga, both on the court and in practice, again demonstrated the total devotion of Bulls personnel to the team concept that has made the Bulls one of the great sports dynasties of modern times: Now, therefore, be it

Resolved, That the Senate congratulates the Chicago Bulls on winning the 1997 National Basketball Association championship.

UNANIMOUS-CONSENT AGREEMENT—H. CON. RES. 216

Mr. GRASSLEY. Mr. President, I ask unanimous consent to confirm the language in H. Con. Res. 216 (104th Congress) providing for a ceremony commemorating the placement of the Portrait Monument in the Capitol rotunda during the 105th Congress.

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

APPOINTMENT BY THE DEMOCRATIC LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Democratic leader, pursuant to Public Law 104–293, appoints James J. Exon, of Nebraska, as a member of the Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to the provisions of Public Law 99–93, as amended by Public Law 99–151, appoints the Senator from Alabama [Mr. SESSIONS] as a member of the United States Senate Caucus on International Narcotics Control.

The Chair, on behalf of the Vice President, pursuant to the provisions of Public Law 99–93, as amended by Public Law 99–151, appoints the Senator from California [Mrs. FEINSTEIN] as a member of the United States Senate Caucus on International Narcotics Control.

ORDERS FOR THURSDAY, JUNE 26, 1997

Mr. GRASSLEY. 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. on Thursday, June 26; I further ask unanimous consent that on Thursday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately resume consideration of S. 949, the Tax Fairness Relief Act.

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

UNANIMOUS-CONSENT AGREEMENT—S. 949

Mr. GRASSLEY. Mr. President, I yield back 2 hours and 39 minutes of the time on the bill for the majority side, and on behalf of the ranking minority member, I yield back 3 hours and 54 minutes on the bill for the Democratic side. I do that as a member of the Finance Committee, speaking for the majority.

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

Mr. GRASSLEY. Mr. President, I ask unanimous consent that with respect to three votes ordered tomorrow morning, that no amendments be in order prior to the previously ordered votes.

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

Mr. GRASSLEY. I also ask unanimous consent that following the ordered votes on Thursday, the Democratic leader be recognized to offer the Democratic alternative, and there be 4 hours of debate to be equally divided in the usual form.

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

MEASURE INDEFINITELY POSTPONED—S. 947

Mr. GRASSLEY. I further ask consent that S. 947 be indefinitely postponed.

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

PROGRAM

Mr. GRASSLEY. Mr. President, for the information of all Senators, tomorrow at 9:30 a.m., the Senate will resume consideration of S. 949, the Tax Relief Act of 1997. By previous consent, at 9:30 a.m. there will be 20 minutes for debate, equally divided between Senator MURKOWSKI and Senator BUMPERS, with a vote occurring in relation to the Bumpers amendment at the expiration of that time.

Following the vote on the Bumpers amendment, there will be 20 minutes of debate equally divided in the usual form, with a vote on or in relation to the Dorgan amendment, No. 517, occurring at the expiration of time, to be followed by 10 minutes of debate, equally divided in the usual form, on the Dorgan motion to refer. The Senate then will proceed to a vote in relation to the Dorgan motion.

In addition, all other amendments offered this evening, and amendments offered during Thursday's session, will be subject to rollcall votes throughout the day as we make progress on the Taxpayer Relief Act. Therefore, Senators can anticipate numerous rollcall votes on Thursday.

As a reminder to all Members, beginning at approximately 9:50 a.m., Thursday morning, the Senate will begin voting on the Bumpers amendment and the two aforementioned Dorgan amendments.

ORDER FOR ADJOURNMENT

Mr. GRASSLEY. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order, following remarks that I will make.

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

CALLING FOR FURTHER INVESTIGATION OF THE FBI CRIME LAB

Mr. GRASSLEY. Mr. President, I have spoken before this body several times about the serious problems in the FBI crime lab. The Justice Department's Inspector General has done the country a great service by uncovering the sloppiness and wrongdoing of certain lab examiners.

A dozen such examiners are criticized in the IG's April 15 report for testifying beyond their expertise, and for changing lab reports. The IG found no criminal violations. Yet the wrongful testimony and the altering of reports by these examiners almost all redounded to the benefit of the prosecution, rather than to the defendant.

This is a curious phenomenon, in my mind. Why weren't the changes more randomly distributed? How come they all benefitted the prosecution? Those are rather obvious questions.

And so I thought a lot about what was done by the IG to determine motive or intent on the part of the examiners whose actions he criticized. And I have come to the conclusion that the IG's methodology was insufficient for determining motive or intent. And so, further investigation is warranted.

The reasons for why further investigation is warranted were laid out in a letter I sent to the Attorney General on June 11. For starters, there was the April 16 Wall Street Journal front-page story on lab examiner Michael Malone. In that article, Agent Malone is cited for improper testimony in several cases, by judges and others.

The Wall Street Journal broke new ground in uncovering problems in the FBI lab. First, it showed that wrongdoing by lab examiners has not been relegated to the three units investigated by the IG. Malone was assigned to a fourth unit—hairs and fibers. And second, it underscored the fundamental flaw in the IG's investigative methodology; namely, that it failed to review, for patterns of wrongdoing, all the cases of each examiner who was severely criticized in his report.

To illustrate the point, it is interesting to note that in the IG's report, Agent Malone is criticized for wrongdoing in only one case—that of ALCEE L. HASTINGS. Yet, the Journal reporter researched open-source case data and found numerous instances of apparent wrongdoing by Malone in other cases. If an enterprising reporter could do such a review, why couldn't the IG?

And so I asked the Attorney General to conduct further investigation of those examiners, including Malone, who were severely criticized in the IG report. All cases worked on by each one of these examiners should be reviewed independently to determine if there is a pattern similar to what the Journal found in the case of Malone. Only then would we see the full scope of each agent's actions. If any patterns exist, those cases should be reviewed for administrative action, for undisclosed Brady material, for civil liability, or for misconduct involving obstruction of justice or perjury.

There's some importance and urgency attached to my request. I understand that the IG has referred the findings of his report to the Pubic Integrity Section for possible criminal prosecution. In my view, they have been referred without sufficient follow-up investigation, thereby increasing the likelihood of declinations. I do not intend to stand by and watch declinations being handed out when some very obvious stones have been left unturned.

My request was that the following agents' cases be reviewed by DOJ prior to any decision by Pubic Integrity:

For possible involvement in altering reports: J. Thomas Thurman; J. Christopher Ronay; Wallace Higgins; David Williams; Alan Jordan.

For possible false testimony: David Williams, Roger Martz; Charles Calfee; Terry Rudolph; Michael Malone; John Hicks; Richard Hahn.

For possible undisclosed Brady material: Robert Webb.

On April 16, I met with the IG, Michael Bromwich, and raised with him the subject of the Wall Street Journal article on Malone. I discussed my belief that his methodology was flawed, and that I would request in writing, after studying his report, that all cases involving lab examiners whose work he severely criticized in his report be investigated further. Thus, the IG has been aware for some time that my request would be forthcoming.

In my discussions with the IG on April 16, one notable issue came up. I asked the IG if he had found possible criminal wrongdoing on the part of any of the lab personnel. He said "no." I then asked him if he had detected a patter of wrongdoing by any agent, as the Journal seemed to find with Malone. He said "no." I asked him if he even reviewed all the cases of any of the criticized agents. He said "no."

These responses are troubling to me because the IG has gone out of his way to say he found no possible criminal activity by lab personnel. It sounds to me like he didn't even look for it. In fact, he told me in my office way back in February—well after his investigation was finished—that it wasn't in his charter to look for possible criminal activity. Therefore, due diligence requires further investigation such as I have requested. Otherwise, the public's full confidence cannot be restored.

In a specific instance, for example, the IG had critized Agent Williams for "backwards science"; i.e., tailoring evidence at the crime scene to evidence found elsewhere, such as at a suspect's home. I asked the IG if his finding of backwards science conducted by Williams didn't warrant further investigation for possible criminal intent.

The IG responded that Williams gave a plausible explanation in his defense; namely, that Williams actually believed that was the proper way to conduct an investigation—in other words, "backwards." The IG said the five blue ribbon scientists who investigated the lab believed Williams' explanation.

Mr. President, I could not believe my ears. First of all, the scientists are not prosecutors. Second, whether Williams' explanation was believed or not, the IG should have reviewed the rest of Williams' cases.

Such a review would have shown one of two things: Either he did do all of his investigations backwards, in which case his explanation would hold up but all of his cases should be considered suspect; or, he did some investigations correctly and some backwards, in which case his explanation would be undermined, and intent would be an issue. At the moment, because of the IG's flawed methodology, we don't know which is correct.

The IG did not even review the second World Trade Center case to see if Williams gave similarly false testimony in court, as he had in the first World Trade Center case. I understand Williams' testimony in the second case was the same as in the first case. If so, this might have established a pattern in the IG's investigation.

Meanwhile, at a May 13 hearing before the House Subcommittee on Crime, the IG admitted, under questioning from Congressman ROBERT WEXLER, that alterations to lab reports appeared to be biased in favor of the prosecution's position. This is a serious matter because it could go to the issue of motive.

It is also not clear to me whether the IG was aware of an FBI internal review in 1994 and 1995 of alterations and changes of lab reports after allegations were made by two lab scientists. James Corby, chief of the Materials Analysis Unit, conducted the review. Dr. Corby verified numerous instances of alterations, many of which were material changes. He concluded that they were clearly intentional. In a memo to his section chief, J.J. Kearney, dated January 13, 1995, Dr. Corby stated the following, with respect to the intentional changes:

> A[n] FBI Laboratory report is evidence. Often times the report itself is entered into evidence during the trial proceedings. The fact that SSA [redacted name] did make unauthorized changes in these reports could have resulted in serious consequences during legal proceedings and embarrassment to the Laboratory as well as the entire FBI.

The FBI's Office of the General Counsel [OGC] apparently concurred. A memorandum from General Counsel Howard Shapiro to the Lab's director, M.E. Ahlerich, dated June 12, 1995, reiterated the lab's policy of not altering reports, and warned that, "* * * failure to follow this policy could subject the FBI and/or individual employees to civil or criminal liability."

Mr. President, I previously placed these documents in the RECORD on March 20, 1997.

The documents and arguments I have advanced on this issue present a compelling case for further investigation. We have yet to hear an equally compelling counter-argument from either the Attorney General, or the IG. The issue of my request came up at the Attorney General's weekly press conference of June 12. A wire story later that evening by the Associated Press, quoted Ms. Reno as simply saying the following:

> We have not seen any basis for criminal inquiry.

Mr. President, I don't know whether or not the Attorney General had read my letter before giving that quote. But I assure you, that if the AG had read it, she would see there is plenty of basis for criminal inquiry.

I also asked Ms. Reno for a response by last week. I have yet to hear a peep out of her office. In my view, the Attorney General needs to act quickly and provide a compelling rebuttal to the facts I laid out in my June 11 letter to her. To simply say "We have not seen any basis for criminal inquiry" is simply not credible. I, for one, have seen sufficient basis.

In the same June 12 AP story, the IG took issue with my statement that he did not do a criminal investigation. The IG said he did a hybrid, criminal/administrative inquiry. The IG may not recall the conversation we had in my office in February. He was asked to respond to a comment in a letter I had received dated February 21, 1997 from then-Deputy FBI Director Weldon Kennedy. The comment was the following:

> * * * [T]he Department of Justice Office of the Inspector General found no instances of perjury, evidence tampering, evidence fabrication, or failure to report exculpatory evidence.

In my office, the IG was asked if he even looked for that. He responded no, because that wasn't in his charter.

Regardless of what is or isn't in his charter, the fact is the IG did nothing to establish intent. If he wants to cite the questioning of David Williams and the backwards science as a probing of intent, well I'll simply rest my case.

It is not my intention to criticize the IG's work. To the contrary, I consider it a landmark effort and an important service for the American people. I have nothing but praise for Mr. Bromwich, his team of investigators, and the five blue ribbon scientists.

But it cannot stop there. There are too many stones left unturned. There is a culture that needs reforming. There's still a cowboy element running loose in that lab.

It seems to me that the IG investigation is merely a point of departure. It identified individuals whose work should be more thoroughly scrutinized. Failure to conduct follow-up investigation can only further erode the public's dwindling confidence in Federal law enforcement.

Meanwhile, Mr. President, I await the Attorney General's overdue response to my letter.

IGNORING THE FACTS AND TWISTING THE TRUTH

Mr. GRASSLEY. Mr. President, today I would like to talk about two letters from the Department of Defense, DOD.

The first letter is dated June 11, 1997.

The second one is dated June 13, 1997—just 2 days later.

Both letters are addressed to the editor of The Hill newspaper, Mr. Albert Eisele.

Both are signed by the Assistant Secretary of Defense for Public Affairs, Mr. Kenneth H. Bacon.

Both were written in response to an article I wrote about Mr. John Hamre in the June 4 issue of the Hill.

Mr. Hamre is the Chief Financial Officer at the Pentagon.

He has been selected by Secretary Cohen to become the next Deputy Secretary of Defense.

I oppose this nomination for the reason I gave in the Hill article.

Mr. Hamre is aggressively pursuing a progess payment policy that the inspector general has declared illegal.

Mr. Bacon charges that my article ignores the facts and twists the truth.

Ironically, Mr. Bacon's letters prove he is the one who ignores the facts and twists the truth.

He sent the second letter to correct misinformation in the first one.

Mr. President, I ask unanimous consent to have his letters and my article printed in the RECORD.

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

ASSISTANT SECRETARY OF DEFENSE,
Washington, DC, June 11, 1997.

ALBERT EISELE,
Editor, The Hill, Washington, DC.

LETTER TO THE EDITOR: Last week Senator Charles Grassley authored an article condemning John Hamre, currently the Comptroller at DoD and the nominee to be Deputy Secretary of Defense ("Sen. Grassley looks for missing $50 billion at DoD," June 4, 1997). It is a serious distortion of Mr. Hamre's record. The facts actually prove the opposite of Senator Grassley's contentions. It is imperative that The Hill publish a correction.

First, Senator Grassley stated "the books at DoD are in such shambles that as much as $50 billion cannot be traced." DoD's books were in very bad shape when Mr. Hamre signed on back in 1993, and they are still troubled, but the facts show that the situation is dramatically improved. Back in 1993, DoD's so-called "problem disbursements" exceeded $34 billion. Last month the total was under $8 billion, a 74% reduction in three years.

Second, Senator Grassley stated that Mr. Hamre has left DoD's funds vulnerable to theft and abuse. The facts are quite different. Mr. Hamre created a dedicated organization—Operation Mongoose—to undertake fraud detection and prevention. He and the DoD Inspector General have hosted governmentwide conferences on fraud prevention. Mr. Hamre is the first, and to my understanding the only, Comptroller that ever initiated an anti-deficiency investigation on himself, asking the DoD Inspector General to review accounts under his jurisdiction.

Third, Senator Grassley claimed Hamre "presided over a scheme" to make illegal process payments. Again, the facts are quite different. Mr. Hamre, working with the DoD Inspector General, has carried out the IG's recommendations on progress payments. Senator Grassley claimed Hamre "tried to legalize the crime" by proposing legislative changes concerning progress payments. That legislation was first proposed by the Inspector General.

Fourth, Sen. Grassley claims Hamre understated his problems through "a clever bureaucratic trick to make the problem look a lot smaller than it really is." The facts are rather different. Rather than report three categories of problem disbursements together, he reported all three categories in two separate tables. None of the data has been dropped and all of it is made available every month to the General Accounting Office.

Reading Sen. Grassley's article is like looking at a distortion mirror in an amusement park. The image he paints is wildly distorted and in most cases is totally reversed from the truth. Facts do matter, even in Washington, and Senator Grassley has not presented the facts.

KENNETH H. BACON,
Assistant Secretary of Defense for Public Affairs.

ASSISTANT SECRETARY OF DEFENSE,
Washington, DC, June 13, 1997.

ALBERT EISELE,
Editor, The Hill, Washington, DC.

DEAR MR. EISELE, I am sorry we have not been able to establish phone contact. In the interim, I thought it would be useful to send you the attached clarification to the letter Ken Bacon sent to The Hill on Wednesday, June 11.

In reviewing the letter we felt that some points were not clear and we want to ensure that our response is as accurate as possible. We hope you will publish this revised letter.

I can be reached at 703-697-0713. Thank you for your assistance in this matter.

Sincerely,

CLIFFORD H. BERNHATH,
Principal Deputy Assistant Secretary of Defense for Public Affairs.

ASSISTANT SECRETARY OF DEFENSE,
Washington, DC, June 13, 1997.

ALBERT EISELE,
Editor, The Hill, Washington, DC.

LETTER TO THE EDITOR: Last week Senator Charles Grassley authored an article condemning John Hamre, currently the Comptroller at DoD and the nominee to be Deputy Secretary of Defense ("Sen. Grassley looks for missing $50 billion at DoD," June 4, 1997). It is a serious distortion of Mr. Hamre's record. The facts actually prove the opposite of Senator Grassley's contentions. It is imperative that The Hill publish a correction.

First, Senator Grassley stated "the books at DoD are in such shambles that as much as $50 billion cannot be traced." DoD's books were in very bad shape when Mr. Hamre signed on back in 1993, and they are still troubled, but the facts show that the situation is dramatically improved. Back in 1993, DoD's so-called "problem disbursements" exceeded $34 billion. Last month the total was under $8 billion, a 74% reduction in three years.

Second, Senator Grassley stated that Mr. Hamre has left DoD's funds vulnerable to theft and abuse. The facts are quite different. Mr. Hamre created a dedicated organization—Operation Mongoose—to undertake fraud detection and prevention. He and the DoD Inspector General have hosted government-wide conferences on fraud prevention. Mr. Hamre is the first, and to my understanding the only, Comptroller that ever initiated an anti-deficiency investigation on himself, asking the DoD Inspector General to review accounts under his jurisdiction.

Third, Senator Grassley claimed Hamre "presided over a scheme" to make illegal process payments. Again, the facts are quite different. Mr. Hamre, working with the DoD Inspector General, is working to carry out the IG's recommendations on progress payments. Senator Grassley claimed Hamre "tried to legalize the crime" by proposing legislative changes concerning progress payments. Prior to proposing legislation, Mr. Hamre had discussed with the DoD Inspector General the possibility of seeking legislative relief if it was too difficult for the Department to comply with the current statute.

Fourth, Senator Grassley claims Hamre understated his problems through "a clever bureaucratic trick to make the problem look a lot smaller than it really is." The facts are rather different. Rather than report three categories of problem disbursements together, he reported all three categories in two separate tables. None of the data has been dropped and all of it is made available every month to the General Accounting Office.

Reading Senator Grassley's article is like looking at a distortion mirror in an amusement park. The image he paints is wildly distorted and in most cases is totally reversed from the truth. Facts do matter, even in Washington, and Senator Grassley has not presented the facts.

KENNETH H. BACON,
Assistant Secretary of Defense for Public Affairs.

[From the Hill, June 4, 1997]

SEN. GRASSLEY LOOKS FOR MISSING $50 BILLION AT DOD

AGE-OLD PRACTICE OF COOKING THE BOOKS AT THE PENTAGON IS ALIVE AND WELL

(By Sen. Charles E. Grassley)

Between 1989 and 1993, a man named James Edward McGill was paid $3,025,677.99 by the United States Navy for phony claims. With nothing more than a mailbox, a couple of rubber stamps and blank government forms, McGill set up a business to cheat the taxpayers. He delivered no goods. He did no work. But he had no trouble doing business with the Navy. Pure chance, rather than internal controls at the Defense Department (DoD), put an end to this scam. Unfortunately for the taxpayers, the McGill case does not stand alone.

The sad truth is, the books at the DoD are in such shambles that as much as $50 billion cannot be traced. The department flunks every single audit by its chief financial officer (CFO). And the inspector general (IG) expects the DoD to continue falling short "well into the next century." When you can't audit the books, you don't know how money is being spent. The result is a multi-million dollar money pipe left vulnerable to theft and abuse.

The problem described here is exacerbated by an illegal operation used by the Pentagon to make progress payments on contracts. Under this policy, payments are deliberately charged to the wrong accounts. Once payments are made, the DoD attempts to "adjust" the accounting ledgers to make it look as though the checks were charged to the right accounts when the money was, in fact,

charged to some other account. The entire process leads to over-, under-and erroneous payments.

Presiding over this scheme since October 1993 has been the comptroller and CFO for the DoD, John J. Hamre. In his official position, Hamre is responsible under the Chief Financial Officer Act of 1990 "to strengthen internal controls and improve financial accounting." However, instead of meeting a pledge to reform the process, Hamre tried to legalize the crime. Earlier this year, he circulated for comment draft legislation to sanction the payment procedures declared illegal by the IG and authorized by Hamre at CFO.

A fundamental issue is at stake. In 1992, the IG stated that the DoD's progress payment procedures "result in the rendering of false accounts and violations" of Title 31,Section 1301 of the U.S. Code. This law embodies a sacred constitutional principle. Only Congress decides how public money may be spent. Section 1301 requires that public money be spent as proscribed in the appropriations acts. Congressional committees spend considerable effort each year segregating public money in different accounts. For example, the DoD appropriations bill might require procurement money be used for production work and not for R&D purposes. Hamre's payment policy shatters the integrity of the appropriations accounts. It spends money according to an arbitrary scheme dreamed up by DoD bureaucrats.

While this payment scheme was in place before Hamre's time, he had a golden opportunity to fix this problem. But every time the issue has popped up on his radar screen he's protected the scheme. Under his leadership, the DoD's progress payment operation has flourished and achieved a new level of sophistication.

When Hamre became CFO he, in fact, did declare war on financial mismanagement. Today, he cites "steep drops in contract overpayments." But his claims are not supported by the facts. Three reports of the General Accounting Office (GAO) issued during the last three years contradict Hamre's success stories. The most recent analysis of the GAO concludes that the DoD's progress payment scheme is the biggest single driver behind overpayments. And each of these reports shows that the DoD has no check in place to detect overpayments. Virtually every overpayment ever examined by the GAO was detected by recipients of checks, not by the government. In most cases, contractors voluntarily refunded the overpayments.

If Hamre was serious about eliminating overpayments, why didn't he shut down the progress payments operation? If he has no capability whatsoever to detect overpayments, where does he get the data that shows a steep drop in such payments? How does he know they are going down if he doesn't know how many there are? Perhaps this means the contractors are no longer making voluntary refunds.

Hamre also has claimed his financial reforms have produced sharp drops in unmatched disbursements. Again, the claims don't stand up to scrutiny. In fact, Hamre has used a clever bureaucratic trick to make the problem look a lot smaller than it really is. In December 1996, he issued a decree that arbitrarily redefined the entire universe of problem disbursements. He simply made the universe smaller by excluding huge numbers of unreconciled disbursements from the totals appearing in official reports. This was not missed by the GAO. In yet another report, the independent analysts challenged Hamre's approach. The GAO concluded that the DoD is understating the size of problem disbursements by at least $25 billion. So, instead of the $18 billion claimed by Hamre, at least $50 billion of tax dollars are unaccounted for.

Because of these facts, I stand opposed to the nomination of Hamre for deputy secretary of defense. My personal feelings have absolutely nothing to do with my position, as charged by some. Rather, I have reached my conclusion based on the facts. If government does not hold accountable the official who is responsible by law, then who?

While Hamre inherited a major problem caused by years of neglect, he took aggressive action to perpetuate the mess. True, Hamre has made a lot of promises and statements about reforming the process. But good intentions never get the job done at the Pentagon. The bottom line is, these kinds of problems cannot be corrected unless those in charge are held accountable. Awarding promotions to leadership that drops the ball is a green light for con artists like James Edward McGill.

Mr. GRASSLEY. Mr. President, I think it would be very helpful to make a side-by-side comparison of these two letters.

It would help bring my main point about Mr. Hamre into sharper focus.

Mr. Bacon's two letters are identical in every respect but one.

A major discrepancy exists between the last paragraph on the first page of the first letter and the same paragraph in the second letter.

I would like to quote from that portion of the first letter.

This is Mr. Bacon talking:

> Senator GRASSLEY claimed Hamre presided over a scheme to make illegal progress payments. Again, the facts are quite different. Mr. Hamre, working with the DOD IG, has carried out the IG's recommendations on progress payments. Senator GRASSLEY claimed Hamre tried to legalize the crime by proposing legislative changes concerning progress payments.
>
> That legislation was first proposed by the IG.

Mr. Bacon's statements do not square with the facts. They are inaccurate.

Mr. President, I pride myself on always doing my homework and always sticking to the facts.

My article on Mr. Hamre's illegal progress payment policy is no exception.

I have documents to back up every point I have made.

From day one, I have never strayed from the facts and conclusions presented by the DOD IG.

From day one, the IG and legal counsel have maintained that the department's progress payment policy "results in the rendering of false accounts and violation of the law."

Nothing has changed since the IG issued its report in March 1992.

The illegal progress payment policy remains in effect at this very moment.

The IG has consistently maintained that the "status quo is unacceptable" and that the policy must be brought into compliance with the law.

After 5 years of unproductive meetings, the IG recommended that the department seek "legislative relief."

The IG proposed a temporary exemption from the law, while the progress payment operation was being overhauled.

But when the draft language hit the street late 1996, it was not at all what the IG had in mind.

This language was drafted by the Defense Finance and Accounting Service but was Mr. Hamre's brain child.

It was far reaching, comprehensive and permanent.

The IG and legal counsel came unglued when they saw it and killed it in the end.

Mr. President, those are the facts—according to the IG—not according to the Senator from Iowa.

Mr. Bacon's first letter is out of sync with the facts.

When the IG, Ms. Eleanor Hill, saw Mr. Bacon's first letter, I am told, she blew her top.

She picked up the phone and called Mr. Bacon. He was on travel, but his principal deputy, Mr. Bernath, was in his office over at the Pentagon.

She confronted him with the truth.

He agreed right then and there to retract the false and misleading statements in Mr. Bacon's first letter.

Mr. President, that's how we ended up with Mr. Bacon's second letter.

I would now like to quote from the revised portion of his second letter:

> Mr. Hamre, working with the DOD IG, is working to carry out the IG's recommendations on progress payments. Senator Grassley claimed Hamre tried to legalize the crime by proposing legislative changes concerning progress payments. Prior to proposing legislation, Mr. Hamre had discussed with the DOD IG the possibility of seeking legislative relief if it was too difficult for the department to comply with the current statute.

These revisions give Mr. Bacon's letter an entirely new meaning.

"Is working to carry out" is a far cry from "has carried out."

"Discussed with the DOD IG" is a far cry from "first proposed by the DOD IG."

The revisions—demanded by the IG—strengthen my main point, Mr. President. They showcase Mr. Hamre's shortcomings.

I need to thank Mr. Bacon.

His letters make my case:

Mr. Hamre has failed to carry out the IG's recommendations and bring his policy into compliance with the law.

Mr. Hamre's policy continues to operate outside the law at this very moment, and that's exactly why he felt like he needed legislation.

He needed to cover his back side.

He needed legal cover for his illegal policy.

Now, I would like to commend Mr. Bacon for being more truthful and accurate.

But there's one little problem.

His first letter still stands as a matter of record.

Where did the misinformation come from in the first place?

Did Mr. Bacon dream it up by himself? Or did someone set him up? If so, who? Did Mr. Hamre have any knowledge of this letter?

Mr. President, I have written Mr. Bacon. He needs to answer my questions.

Mr. President, I ask unanimous consent to have this letter printed in the RECORD.

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

U.S. SENATE,
Washington, DC, June 18, 1997.

Hon. KENNETH H. BACON,
Assistant Secretary of Defense for Public Affairs, Washington, DC.

DEAR MR. BACON: I am writing in response to your letters of June 11, 1997 and June 13, 1997, to Mr. Albert Eisele, Editor of The Hill.

Your letters attempt to address some of the points I raised in an editorial piece, which appeared in the June 4, 1997 issue of The Hill.

Mr. Bacon, you suggest that I have distorted the truth and ignored the facts. On the contrary, I pride myself on doing my homework and always sticking to the facts, and my article on Mr. Hamre's illegal progress payments policy is no exception. Ironically, it is clear from the revisions you were forced to make in your second letter—to correct errors you made in your first letter—that it is you who has ignored the facts and distorted the truth.

From day one, I have never strayed from the facts and the conclusions presented by the Department of Defense (DOD) Inspector General (IG). From day one, the IG and legal counsel have maintained that the department's progress payment policy "results in the rendering of false accounts and violation of the law." Nothing has changed since the IG issued its report in March 1992. The illegal progress payment policy remains in effect at this moment. From day one, the IG has maintained that "the status quo is unacceptable" and the policy must be brought into compliance with the law. After five years of endless meetings and "seeing no light at the end of the tunnel," the IG recommended that the department consider seeking "legislative relief." The idea was to obtain a temporary exemption from the law—while the progress payment operation was overhauled. The language itself was drafted at Mr. Hamre's direction—not by the IG but by the Defense Finance and Accounting Service. When that language hit the street, it was not at all what the IG had envisioned. It was far reaching and comprehensive and permanent. The IG and legal counsel expressed strong objections to it and killed it in the end.

Those are the facts, Mr. Bacon. If you have any questions about the facts, I suggest you contact the IG. You need to talk with Mr. Bob Lieberman. He is the Assistant IG for Auditing. His number is 703-604-8901. He will set you straight. He knows the progress payments issue from top to bottom and beginning to end. He's the expert.

When you speak to Mr. Lieberman, you will quickly discover that you are the one who departed from the facts. You will quickly discover that your first letter contains inaccurate, misleading, and even false information. This is the most offensive portion of your letter:

"Mr. Hamre, working with the DOD Inspector General, has carried out the IG's recommendations on progress payments. Senator Grassley claimed Hamre "tried to legalize the crime" by proposing legislative changes concerning progress payments. That legislation was first proposed by the Inspector General."

After you signed and mailed this letter to the Hill, I was given a copy. I immediately realized that your primary assertion was false. The suggestion that Mr. Hamre had brought his progress payments policy into compliance with the law was totally and completely wrong. It did not square with the facts—as I know them. So I sent your letter to the IG for comment to make sure I wasn't off base. I have been told that the IG, Ms. Eleanor Hill, was enraged when she saw that statement. She called your office to complain. You were on travel, but she spoke with your deputy. He agreed to retract your false and misleading statements. As a result of the IG's complaint, you sent a second, revised letter to The Hill. This one is dated June 13, 1997. The false statements have been removed from this letter. They have been replaced by statements that constitute a fairly accurate reflection of the facts. The revised statement is as follows:

"Mr. Hamre, working with the DOD Inspector General, is working to carry out the IG's recommendations on progress payments. Senator Grassley claimed Hamre "tried to legalize the crime" by proposing legislative changes concerning progress payments. Prior to proposing legislation, Mr. Hamre had discussed with the DOD Inspector General the possibility of seeking legislative relief if it was too difficult for the Department to comply with the current statute."

Mr. Bacon, your second letter takes a big step in the right direction. "Is working to carry out" is a far cry from "has carried out," and "discussed with the DOD IG" is a far cry from "first proposed by the DOD IG." Those corrections conform with the facts as I understand them.

Mr. Bacon, the corrections you made in your second letter strengthen my main point and showcase Mr. Hamre's shortcomings. In fact, they make my case: Mr. Hamre has failed to carry out the IG's recommendations and bring his progress payment policy into compliance with the law. His progress payment policy continues to operate outside of the law at this very moment, and he knows it. That's exactly why he proposed legislation. He wanted legal cover for an illegal operation. He wanted to sanction a policy that the IG had declared illegal and that he had personally authorized. As I said, he wanted to legalize the crime. And finally, this legislation was not dreamed up by the IG. It was the brain child of Mr. Hamre and the Defense Finance and Accounting Service.

I commend you for trying to be more accurate and truthful, but your original letter still stands as a matter of record. You signed and mailed it. How did that happen? Was the misinformation of your own making, or did someone else set you up? I would like some answers.

Mr. Bacon, I would like to understand the true origins of the false information contained in your first letter. Is this something you dreamed up on your own? If not, where did you get the information? What organization within the department provided this information? Please provide the name and title of the person who supplied this information. And did you discuss this particular piece of information with Mr. Hamre? Did Mr. Hamre have any knowledge of this information? Was Mr. Hamre aware of your letter before it was mailed to The Hill?

I request a response to my questions by June 24, 1997.

Your cooperation in this matter would be appreciated.

Sincerely,

CHARLES E. GRASSLEY,
U.S. Senator.

Mr. GRASSLEY. Mr. President, I hope my colleagues will take the time to make a side-by-side comparison of Mr. Bacon's first and second letter.

A side-by-side comparison of the two letters will help them to understand who is sticking to the facts and telling the truth, and who isn't.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 tomorrow morning.

Thereupon, the Senate, at 10:11 p.m., adjourned until Thursday, June 26, 1997, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 25, 1997:

THE JUDICIARY

SONIA SOTOMAYOR, OF NEW YORK, TO BE U.S. CIRCUIT JUDGE FOR THE SECOND CIRCUIT, VICE J. DANIEL MAHONEY, DECEASED.

DEPARTMENT OF DEFENSE

RUDY DELEON, OF CALIFORNIA, TO BE UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS, VICE EDWIN DORN, RESIGNED.

EXTENSIONS OF REMARKS

TEACHER TECHNOLOGY TRAINING ACT OF 1997

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. VENTO. Mr. Speaker, I rise today in support of the Teacher Technology Training Act of 1997 offered by my friend and colleague, Representative MORELLA, who heads the Science Committee's Subcommittee on Technology. I am proud to be a sponsor of this important legislative initiative.

Hooking schools to the Internet and improving access to technology are crucial first steps towards ensuring our Nation's students can compete in the increasingly global economy of the 21st century. However, access to technology is only half the equation. Making sure teachers and students are able to do more than admire the brand new computers in their classrooms and actually use them is the second half of the equation. The Internet is truly the world's first global teaching tool, but we will never realize the power and potential of the Internet as a teaching tool until we equip teachers with the necessary training to know how to optimize its use in the classroom.

The Teacher Training Technology Act is a legislative initiative introduced in Congress geared solely towards funding for teacher training in technology. Many Federal programs have money available for teacher training, but there are frankly too many claims and demands on these funds to accommodate teacher technology training. Included in the President's Technology and Literacy Program, is a proposal set aside of funds for technology in education, but a glaring defect is that no funds are focused specifically on technology training for teachers.

This legislation recognizes the technology training deficit and provides for both in-service training for existing teachers, and pre-service training for new teachers, so that both groups will be getter prepared in the classroom.

Just as a dictionary cannot be used as a resource by someone who is unable to read, computers in our classroom are only useful to the extent that teachers are able to understand their operation and apply this know how in the classroom today and tomorrow. I ask that my colleagues support this bipartisan legislation.

U.S. GIRL SCOUT GOLD AWARD

HON. PETER HOEKSTRA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. HOEKSTRA. Mr. Speaker, today I would like to salute three outstanding young women who have been honored with the Girl Scout Gold Award by the Michigan Pine and Dunes Girl Scout Council in Muskegon, MI. Debbie Christenson, Shannon Jones, and Randi Durst were honored May 15, 1997 for earning the Gold Award, the highest achievement award in U.S. girl scouting.

The Girl Scout Gold Award symbolizes outstanding accomplishments in the areas of leadership, community service, career planning, and personal development. To receive the award, a Girl Scout must earn four interest project patches, the career exploration pin, the Senior Girl Scout Leadership Award, and the Senior Girl Scout Challenge, as well as design and implement a Girl Scout Gold Award project.

As members of the Michigan Pine and Dunes Girl Scout Council, Debbie, Shannon, and Randi have been working toward the Girl Scout Gold Award for over a year. Debbie completed her Gold Award project in the area of developing pride for girl scouting in younger members by honoring the Girl Scout founder, Juliette Low. For her project, Shannon coordinated and promoted the 85th anniversary celebration of girl scouting, while Randi's project was in the area of scholarship funding for wider opportunity participants.

I would like to commend these three young women for the significant service they have provided to their community and their country and congratulate them on receiving the Girl Scout Gold Award.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998

SPEECH OF

HON. DOC HASTINGS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1119) to authorize appropriations for fiscal years 1998 and 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal years 1998 and 1999, and for other purposes.

Mr. HASTINGS of Washington. Mr. Chairman, many Department of Energy sites have dramatically downsized over the past three years. In fact, each of the three largest sites—Hanford, Savannah River, and Oak Ridge—have seen reductions in employment of at least 30 percent during this time frame. Each has had its work force reduced by at least 3,100 employees. This has had a dramatic impact on these areas, especially those located away from a metropolitan area.

In spite of these reductions, the committee cut section 3161 economic transition funding from $70 million to $22 million—more than a 60 percent reduction.

My amendment would restore $44 million to the program, and require that the Department contract with a private auditing firm to conduct a study examining the impact of the program in the past 2 years, and an estimate of the number of jobs created in each community under the 3161 program.

This is a responsible, commonsense way to ensure that current programs continue, but that we also take steps to ensure that the money is spent efficiently.

If the report suggests otherwise, Congress can then take action to address the program's deficiencies.

As a result, I urge a "yes" vote on this amendment.

SPECIAL RECOGNITION OF A. JASON BONAPARTE

HON. ROD R. BLAGOJEVICH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. BLAGOJEVICH. Mr. Speaker, it is my privilege to rise to recognize high school senior, A. Jason Bonaparte, for his outstanding contributions to our community as a member of the Beautillion 1997 Program. The success of our Nation lies in the hands of our youth as they mature into the next generation of decisionmaking adults. It is particularly reassuring to see a young man such as Jason make a concerted effort to secure his future and the future of our Nation.

This spring, Jason Bonaparte achieved two important milestones. In addition to receiving a high school diploma, he also graduated from the Beautillion 1997 Program. Sponsored by the Alpha Phi Alpha Fraternity, this program is dedicated to assisting in the advancement of African-American males in our communities. The Beautillion prepares a select group of individuals for life in college and beyond through various educational, outreach, and service-orientated activities. Jason and his fellow participants took on tough issues facing our Nation through discussion groups, and had an opportunity to gain valuable insight from community leaders through a guest lecture series.

The hard work and dedication of Jason Bonaparte and his fellow participants in the Beautillion Program is deserving of our recognition. In their efforts, these young men have become role models for our Nation's youth. The have made a positive investment, not only in their own lives, but in the future of our country as a whole. I commend them on their efforts.

DISAPPROVAL OF MOST-FAVORED-NATION TREATMENT FOR CHINA

SPEECH OF

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1997

Mr. FORD. Mr. Speaker, I rise today to oppose this resolution. The debate today comes down to two simple questions: Will we choose to isolate China, or will we remain actively engaged with China through trade and economic cooperation?

The 20th century will be recorded as the American century Mr. Speaker, because as a nation, we led the world in trade, in human rights and in international cooperation. If we expect to lay claim to the 21st century, as we did the 20th, we must engage China—a nation which will emerge as one of the most powerful in the world.

There is no doubt that China has serious human rights problems that must be addressed. But there are more effective means to address these concerns without hurting American jobs, such as, implementing targeted sanctions and enforcing existing international trade laws.

Furthermore, Mr. Speaker, maintaining normal trade relations, which is all MFN does, provides America with a meaningful forum to influence important human rights issues.

Tomorrow's marketplace will be shaped by the forces of technology and globalization. Studies tell us that in the 21st century, 90 percent of today's kindergarten students will be working in jobs that do not exist today. Many of these jobs will be export driven, and many of these exports will go to China. If America disengages from China, our ability to compete in that global marketplace will be undermined. I urge my colleagues to oppose this resolution.

A TRIBUTE TO CHIEF DEPUTY DON LANQUIST

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. SHERMAN. Mr. Speaker, I rise today to honor Chief Deputy Don Lanquist for 30 years of distinguished service to our community and the Ventura County Sheriff's Department. John F. Kennedy measured a man's success in public service according to four criteria—courage, judgment, integrity, and dedication. Chief Deputy Don Lanquist not only possesses these virtues, but serves as an example of what a leaders should be.

When most people think of Don, they think of someone they can always go to in order to get the job done. He is able to follow projects from inception to completion, personally working each and every step along the way.

The Todd Road Jail Facility, a nationally recognized showcase facility, is one example of his exceptional work. Don began with the idea of building a new jail, requisitioned the funding from legislators, aided in project design and development, and planned the inauguration of the new facility. Few people are capable of following projects to completion especially with such success. This is just one of the many reasons the citizens of Thousand Oaks honor him today.

In addition to his contributions to law enforcement and public protection, I would like to recognize Don today for his compassionate treatment of other people. He is an extraordinary leader because he always puts the feelings of others first. His leadership, however, does not end with his job. Don has also served on the State Sheriff's Association and on the California Board of Corrections.

Chief Deputy Lanquist is truly able to accomplish monumental tasks and has indeed led his field of custody operations in to the 21st century. His successes in prisoner management and rehabilitation have contributed to Ventura County's reputation as one of the Nation's safest counties.

I ask my esteemed colleagues today to join the family, friends, and citizens of Ventura County in recognizing Chief Deputy Don Lanquist for 30 years of exceptional service. His hard work and dedication make him a role model for all in our community.

FLOODING IN MILWAUKEE

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. BARRETT of Wisconsin. Mr. Speaker, this past weekend southeastern Wisconsin experienced serious flooding when more than 7 inches of rain fell within 12 hours, forcing hundreds of my constituents from their homes and causing millions of dollars in damages. Many residents of Milwaukee County were without electricity, trying to rescue their valuable possessions, furniture, major appliances, and other household essentials from flooded and mud-caked basements. Schools, roads, government buildings, and municipal equipment also suffered significant damage. In fact, my family and I spent 2 days getting a foot and a half of water out of our own basement.

Since the flooding began, I have been in contact with local and State disaster officials, as well as the Federal Emergency Management Agency [FEMA] and the Small Business Administration [SBA], to coordinate a response to this disaster. Today, FEMA officials are in Milwaukee to survey the damage and provide a preliminary damage assessment [PDA] to the President as he decides whether to declare the region a Federal disaster area. I am confident that the people of Milwaukee will work together to repair the damage caused by the flooding, and that we will be successful in our efforts to rebuild.

As a result of this disaster, I was not present during rollcall votes 225, 226, and 227 on Monday, June 23. I strongly support these three amendments to the Defense authorization bill, and had I been present, I would have voted "aye" on each. I am pleased that the House approved these amendments overwhelmingly, and I look forward to their consideration in the Senate.

TRIBUTE TO CHIEF GALEN W. BROOKENS

HON. PETER HOEKSTRA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. HOEKSTRA. Mr. Speaker, it is my great pleasure today to honor Galen W. Brookens, who is retiring this year as chief of police at the Fremont Police Department in Fremont, MI.

Chief Brookens began his distinguished career with the Fremont Police Department on March 16, 1963, as a patrolman. He served in this capacity until January 1, 1968, when he went to work as an investigator for the twenty-seventh circuit court. In December 1968, he returned to the Fremont Police Department after accepting the position of chief of police.

Throughout his career, Chief Brookens has played an instrumental role in the community he has served. In 1979, he aided in the development and institution of the 911 system in Newaygo County, the second county in Michigan to provide this service, and also worked to establish the Silent Observer Program. He has served as chairman and board member of the Michigan Law Enforcement Officers Training Council, the Newaygo County Administrative Officers Association, and the Michigan Chiefs of Police. In 1982, Chief Brookens received the "Service Above Self" award from the Rotary Club for his role in the development of an alcohol rehabilitation program in Newaygo County, his willingness to speak and teach at Fremont High School and various civic organizations, and his service and devotion to the First Reformed Church as a Sunday school teacher, deacon, and choir member. In addition, Chief Brookens has been given numerous awards, certificates, and commendations for exemplary police work and selfless service to the community of Fremont.

For 33 years, Chief Brookens has dedicated his career to serving others. His work in the community has been an invaluable asset that has affected, and will continue to affect, the lives of many. As he retires, I would like to give him my thanks for his years of public service to the citizens of Fremont, and wish him all the best in his future endeavors.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998

SPEECH OF

HON. DOC HASTINGS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1119) to authorize appropriations for fiscal years 1998 and 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal years 1998 and 1999, and for other purposes.

Mr. HASTINGS of Washington. Mr. Chairman, the 1997 Department of Defense Authorization Act included several provisions designed to encourage the Department of Energy to implement reforms in the management of environmental cleanup programs.

Unfortunately, Department management continues to struggle with ongoing cleanup programs, as evidenced by the problems facing the Pit 9 project in Idaho, and problems with the transition to new contractors at a number of sites.

Recognizing these programs, a bipartisan group of lawmakers spent several months studying the Department system. Working with our colleagues, with our constituents, and with the Nation's Governors and State attorneys general, we came up with a series of recommendations which were designed to help cut through the redtape and bureaucracy surrounding the DOE cleanup system.

These provisions were included in the House version of the 1997 Defense bill, and are now a part of Public Law 104–260.

Unfortunately, the Department has virtually ignored congressional intent, and has failed to implement almost every single one of these recommendations. For instance:

The Department has taken no action to reappoint site managers at each cleanup site, as required by section 3173 of the bill.

The Department has failed to submit to Congress a report on section 3175, which requires the establishment of a technology deployment program at DOE sites.

To the best of my knowledge, the Department has failed to comply with section 3174 of the law, which requires that the Secretary certify that any new Department paperwork requirements—called orders—are necessary for "the protection of human health and the environment or safety, the fulfillment of legal requirements, or the conduct of critical administrative functions." This was meant to reduce the absolutely unbelievable amount of paperwork that exists in the DOE system.

The Department has failed to work with State leaders to ensure that the provisions cover sites other than the Hanford Nuclear Reservation in my district, as suggested by section 3172.

And until this past month, the Department had ignored provisions that Congress had included to speed up transfers of funding from one project to another. And although these limited reprogrammings have recently been approved at Hanford and Savannah River, Department budget officials are apparently misinterpreting even these simple procedures.

Mr. Chairman, Congress included these provisions as a subtle reminder to the Department that the time for reform had come. The Department's decision to ignore these provisions demonstrates that they have little interest in taking the steps necessary to assure Congress that the $6 billion we appropriate for these programs is well spent.

This amendment strengthens the existing provisions by making a number of the changes mandatory, instead of voluntary. It will empower the site manager to take action to enhance environmental restoration at the site. It puts a 2-month limit on the amount of time that DOE headquarters may take to review urgent budget transfer requests. It gives the site manager the responsibility for considering the cost and risk reduction benefits in making decisions in cleanup actions.

Some have argued that this will grant unilateral authority to the site manager. That is simply not true. The Secretary will retain the ultimate decision making authority. And the Secretary is also given the authority to remove a site manager, if he sees fit.

Mr. Chairman, it was my original intention that this amendment should cover all Department of Energy sites. However, we agreed at this point to limit it to the Hanford site, with the expectation that the Department will seek to apply similar provisions across the complex.

This is a simple, but commonsense step towards imposing responsible management on a Department which has clearly demonstrated that it has had problems managing the billions of dollars that we have given them each year. As a result, I would urge my colleagues to support this provision.

CONGRATULATIONS TO THE HORACE O'BRYANT MIDDLE SCHOOL'S CONCERT CHOIR AND SERENADES

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. DEUTSCH. Mr. Speaker, I rise today to congratulate the Horace O'Bryant Middle School's Concert Choir and Serenaders which was commended as the best overall choir among all middle and high school choirs in the Nation. The group from Horace O'Bryant recently won the top award in the finals at the All American Music Festival in Orlando, FL.

About 60 middle schoolers comprise the choir and about half of them also participate in the Serenaders, a dancing jazz show choir. Much of their repertoire consists of popular melodies from movies and television shows.

I am proud to see that music is still so great a part of our children's lives. The Key West Citizen said it well when it declared that "We can share this triumph with the kids and their teachers because we know that their music lights the way to a harmonious future for all of us."

Mr. Speaker, I applaud these students of their diligence and commitment to music and for their excellent representation of Florida in this prestigious national competition. Also to be commended are the team's choral director, parents, and school principal, who gave their time and support.

HONORING RICHARD SILVER'S 55 YEARS OF SERVICE

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. BILIRAKIS. Mr. Speaker, I rise today to recognize Richard Silver's 55 years of service to our Nation and its veterans.

Mr. Silver is currently the director of the James Haley VA Medical Center in Tampa, FL. Since 1979, he has guided what is, in my opinion, one of the best VA medical facilities in the country. The Center serves veterans from around my home State of Florida and provides them with the quality care they deserve. He has used an active teaching role and close professional relationship with the University of South Florida College of Medicine.

Before coming to Tampa, Richard served in the same position at the Brockton and Northampton VA Medical Centers in Massachusetts. He has also served as the assistant hospital director at East Orange, NJ, and was director of personnel service in the Department of Medicine and Surgery at the VA Central Office. In total, he has over 55 years of service to our country.

In addition to devoting his life to the care of our Nation's veterans, Mr. Silver also served in the U.S. Army as a captain while he was assigned to the Combat Engineers in the South Pacific.

Richard has devoted his life to protecting our Nation and those who answered the call in its time of need. He has an exemplary career of service that is worthy of recognition.

Mr. Speaker, I would like to congratulate Richard Silver and wish him continued success in his work at the Tampa VA.

TRIBUTE TO GEORGE SCHMIEDEL

HON. JAMES H. MALONEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. MALONEY of Connecticut. Mr. Speaker, it gives me great pleasure to rise today to honor Mr. George Schmiedel for his outstanding service to the citizens of Connecticut. On this Friday, June 27, Mr. Schmiedel will retire after 30 years of service as the registrar of voters for my hometown of Danbury, CT.

Mr. Schmiedel is a lifelong resident of Danbury, CT, and a 1948 graduate of Danbury High School. He is a dedicated member and active participant at St. Peter's Church. In addition to his lengthy and distinguished service to the city of Danbury, Mr. Schmiedel also was employed for 19 years by the John Hancock Insurance Co. He and his wife, Sally, are the proud parents of three children: Mark, Steven, and Brenda, and have five grandchildren.

Mr. Schmiedel has a long history of outstanding commitment to the community of Danbury. His membership and service in the Arthritis Association, the American Cancer Society, the Catholic War Veterans, and the Danbury Democratic Club has made a lasting contribution and has made him an invaluable member of our community.

Mr. Schmiedel's extended service is a testimony to his dedication to the citizens of Connecticut and a reflection of his personal concern for the people of Danbury. Mr. Speaker, I ask you and my other distinguished colleagues to join me in commending Mr. George Schmiedel for his dedicated service and to congratulate him on his retirement.

TRIBUTE TO THE FBI AND CIA

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. OXLEY. Mr. Speaker, I wish to commend the Federal Bureau of Investigation and the Central Intelligence Agency for the apprehension of a suspect in the murder of two CIA employees and the wounding of three other individuals near Langley 4 years ago.

According to reports, FBI agents took the confessed killer into custody in a covert operation near the Afghan-Pakistani border with intelligence support from the CIA, ending a 4-year international manhunt. The dawn raid was executed without incident.

This case demonstrates the vital importance of maintaining a strong U.S. intelligence community. It also reminds us of the value of perseverance in the pursuit of justice.

Mr. Speaker, I am proud of the work done by the FBI and the CIA last week. All America thanks them.

ENCRYPTION BILL: AN EXERCISE IN DECEPTION

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Ms. LOFGREN. Mr. Speaker, last week the Senate Commerce Committee reported a bill, S. 909, sponsored by Senators MCCAIN and KERREY, which largely embodies the latest administration proposals to deal with encryption technology. This misguided legislation (S. 909) would be a great leap backward in the effort to reform current American export restrictions on encryption and remove serious impediments to the competitiveness of our Nation's high-tech industry.

In addition, by proposing unprecedented domestic controls on the use of encryption, the McCain-Kerrey bill also poses serious threats to fundamental civil liberties and privacy rights. I believe that the Senate effort is propelled largely by a lack of understanding of both the worldwide prevalence of strong encryption and the technical challenges posed by the massive key recovery-escrow infrastructure envisioned in the bill.

Earlier this week, Mr. Dan Gillmore, columnist for the San Jose Mercury News discussed the problems with S. 909 and strongly urged a rejection of the McCain-Kerrey approach. I submit his column into the CONGRESSIONAL RECORD.

[From the San Jose Mercury News, June 23, 1997]

ENCRYPTION BILL: FEDERAL EXERCISE IN SELF-DECEPTION

(By Dan Gillmor)

As a bill bearing his name zipped last week through the Senate Commerce Committee he heads, Arizona Republican John McCain said, "This bill carefully seeks to balance the concerns of law enforcement with individual privacy concerns."

The legislation, co-sponsored by Nebraska Democrat Bob Kerrey and two other Democrats, was the latest futile attempt in Congress to achieve the impossible: compromise on an issue that fundamentally has no middle ground.

The issue is encryption, the scrambling of digital information. Try as they might, lawmakers must eventually understand the reality. When it comes to the privacy of personal information in the digital age, we have two simple choices. Either we allow people to encrypt their messages, using scrambling and unscrambling "keys" to which only they have access, or we do not.

Governments are certain that bad people will use encryption to help achieve bad ends. They're right. But their cure would shred our basic liberties.

So the Clinton administration and its allies—the McCain-Kerrey legislation is widely viewed as an administration-approved plan—are pushing a policy that would force us to put descrambling keys in the hands of third parties. Then, when law enforcement people wanted to see our communications, they'd simply get the keys from that third party.

The McCain-Kerrey bill pretends to stop short of that. It would force government agencies to use only electronic hardware and software that included this key-recovery scheme. It would also require the same system for anyone using a network that is funded in any way by federal funds, including virtually all university networks.

While one section calls the system "voluntary" for private individuals, the rest of the legislation would make it all but impossible to resist. Hardware and software companies, which so far have resisted the government's moves, will be much more likely to simply give in and build this key-recovery method into all of their products if they have to build it into ones bought by the government. Consumers need options, not monolithic products.

Another section of the bill would, in effect, require even private citizens to use such software—and therefore give their keys to the third parties—if they want to buy anything online. People tend to use what they have in front of them.

There's nothing wrong with the idea of letting a third party hold onto a descrambling key in certain cases. As former White House official Jock Gill noted recently on an Internet mailing list, all government communications should use such a system so the public can keep an eye on what the government is doing in our name and with our money. We'll need to create a system, of course, where such oversight doesn't end up forcing the public to use exactly the same technology for its own encryption needs—or at least keep private keys out of the hands of centralized third parties.

Companies, meanwhile, will need to hold onto the business-related keys of employees, so that vital records won't be lost when someone leaves or dies. But I can't think of many companies that will be happy about giving the vault keys to third parties they can't control.

Private citizens also should consider giving their keys to trusted third parties, just as they give their house keys to neighbors when on vacation trips. I intend to do just that—but it's none of the government's business who gets my personal encryption key. I need strong encryption, as the digital age arrives, because more and more of my life will exist on these public networks.

The practical difficulties of setting up a centralized key-recovery system are immense. Even if it could be done, I would never trust such a government-run system to be even remotely secure from corruption. I remember the Social Security employees who sold personal information to outsiders. I've also seen too much evidence that governments tend to abuse liberties when they have too much power—and the McCain-Kerrey bill would allow virtually anyone at any level of law enforcement to have access to private information on the flimsiest pretext, not even requiring a court order.

Kerrey's participation in this latest travesty is sad. He needs no lessons in courage. He lost part of a leg in Vietnam. Later, as he stood up to the know-nothings who would ban flag-burning, he noted that our strength comes partly from our ability to express ourselves even in ways that offend many others.

Now, however, Kerrey is aligning himself with a much more dangerous crowd of know-nothings: those who'd ban our right to keep private information private. He may believe this is about finding common ground; if so, someone has fed him falsehoods. His proposal, if enacted, would create the worst invasion of our fundamental liberty in many decades.

If you care even slightly about your privacy in the future, pick up a pen today and write your Senators and member of the House of Representatives. Tell them to reject the Clinton-McCain-Kerrey approach. Tell them you value your privacy and won't give it up without a fight. And remind them that you vote.

A TRIBUTE TO SAN DIEGO POSTAL EMPLOYEES

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. CUNNINGHAM. Mr. Speaker, I rise once again to pay tribute to the U.S. Postal Service employees of San Diego. Again, a survey, conducted by Price Waterhouse, has confirmed that 95 percent of all letters mailed to and from Dan Diego arrived on time. This places San Diego mail carriers second best in the Nation; 1 percentage point behind first place.

The Postal Service employees of San Diego should be proud of their excellent service. While the national slogan for the Postal Service is "We Deliver," San Diego postal employees say, "We deliver on time" and this survey proves that they do.

I want to personally recognize San Diego District Manager Danny Jackson, the Margaret L. Sellers Processing and Distribution Center Manager Thomas Wilson, and the San Diego Postmaster Glenn Crouch. Along with every postal employee in San Diego, they have the right to be proud of their accomplishments. They have once again brought national recognition to San Diego and enhanced our reputation as America's finest city.

Every San Diegan should join me in expressing gratitude to our Postal Service employees in San Diego and their commitment to be the best of the best.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998

SPEECH OF

HON. DOC HASTINGS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1119) to authorize appropriations for fiscal years 1998 and 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal years 1998 and 1999, and for other purposes.

Mr. HASTINGS of Washington. Mr. Chairman, I have been working closely with Mr. HALL to clarify the terms and conditions of Department of Energy property transfers. In Washington State, economic development activities are largely undertaken by ports. However, the Department has been unclear as to whether ports are eligible to apply for surplus Department of Energy property. I am pleased that the guidelines established pursuant to the Hall amendment will address these issues.

Past Congresses have set up a series of provisions which govern the transfer of Federal Government property to other agencies, to local governments, or to economic development organizations. A special provision was created for Department of Energy waste cleanup sites, which frequently are contaminated, or near contaminated areas.

By allowing the Government to transfer unproductive properties, the taxpayer will benefit by eliminating costly maintenance and security expenses. Second, it will provide additional opportunities for economic growth in communities which are suffering from dramatically reduced Department of Energy budgets. This is particularly important given the National Security Committee's decision to reduce section 3161 economic transition funding from $70 million to $22 million.

Mr. Chairman, the work force in my district has been cut by 31 percent in the past 3 years. Savannah River is seeing a reduction of 1,800 employees as we speak. And Oak Ridge, Rocky Flats, and Fernald have all seen work force reductions of between 20 percent and 30 percent.

This amendment will enable local economic development agencies to more easily acquire surplused Federal property and bring in private sector employers. I thank Mr. HALL and urge the adoption of the amendment.

CHILTON COUNTY ALABAMA CELEBRATES THE 50TH ANNIVERSARY OF THE CHILTON COUNTY PEACH FESTIVAL

HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. RILEY. Mr. Speaker, I rise today in recognition of the Chilton County Peach Festival. Chilton County is known across the country for the fine peaches it produces. Each year the Chilton County Peach Festival pays tribute to these peaches and the growers who produce them. The Clanton Jaycees, the sponsors of the festival, work alongside the Chilton County fruit growers to make this event a success. This year is particularly exciting not only because of the bumper crop of peaches, but because this year marks the 50th anniversary of the Chilton County Peach Festival.

The first festival was held in 1947 in Thorsby, AL. It was sponsored by the Clanton Kiwanis Club, the Thorsby Business Men's Club, the Thorsby Civic Club, the Clanton Lion's Club, and the Clanton Chamber of Commerce. The Chilton County Chamber of Commerce has also sponsored the event. The festival was eventually moved to Clanton, the county seat. For many years the energetic young men and women of the Clanton Jaycees have devoted countless hours to this festival, making it the largest event in Chilton County.

The festival is celebrated each June with a parade, a peach queen contest, and a peach auction. The auction provides funds that allows the Clanton Jaycees to perform charitable work throughout the year, including furnishing Christmas presents for children from economically disadvantaged families. The parade has numerous entries, including the winners of the Chilton County Peach Queen contest and their courts. The three queens are chosen by judges during contests held the week of the festival. The winners are crowned as Miss Peach, Junior Miss Peach, and Little Miss Peach. We would like to extend our congratulations to the winners and to all the former queens returning for this anniversary celebration.

Chilton County peach growers truly deserve this annual tribute. These growers have worked through years of droughts, floods, insect infestations, and bitter cold to protect the trees from harm and save the crop that is so valuable to the economy of Chilton County. In fact, the peaches these growers produce account for approximately 75 percent of the peaches grown in Alabama. The peach industry brings an estimated $40 million dollars to Chilton County every year. These peaches are sold at local markets that attract many tourists who want to buy the famous fruit and mouthwatering products made from them, such as peach ice cream. Peaches from Chilton County also can be found in grocery store produce sections across the country.

We would like to extend our congratulations to the people of Chilton County on the 50th anniversary of the Chilton County Peach Festival. We would also like to pay special tribute to the Clanton Jaycees and the Chilton County peach growers, who make it all possible.

FORT RENO

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today to introuce legislation to resolve a longstanding land dispute between the United States and the Cheyenne and Arapaho Tribes of Oklahoma.This land, known as Fort Teno, was used as a military reserve and was later transferrred to the Department of Agriculture. Currently, this Department has a small research station there.

The Fort Reno land were part of the original Cheyenne-Arapaho reservation created by Executive order in 1869. The lands were removed from the reservation, again by Executive order, in 1883. It was the understanding of the tribes that these land would be returned to the when the military no longer needed the lands, but this provision is not clearly documented.

Congress later transferred portions of the land to the Departments of Agriculture and Justice, and these departments continue to use the land to the exclusion of the Indians. Several attempts have been made in the House to return the land to the tribes, but no bill has ever been enacted into law.

A 1975 statute states Federal land located within original Indian territory which becomes excess to the needs of the agency maintaining jurisdiction over the land should be returned to the tribe whose reservation originally included the land. By operation of this statute, the lands should have been returned to the tribes 2 years ago.

While legal arguments can be made that the tribes have been compensated for this land in a prior land settlement, I am not persuaded that these two tribes have been treated fairly in their dealings with the U.S. Government, and urge my colleagues to support this legislation so that we may provide a final, equitable resolution to this dispute.

Mr. Speaker, a copy of the bill and a brief section by section analysis follows.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds the following:

(1) The original Cheyenne-Arapaho Indian Reservation in western Oklahoma, which included the land known as the Fort Reno Military Reservation, was established by the Medicine Lodge Creek Treaty of 1867 and reaffirmed by Executive order in 1869.

(2) The Fort Reno Military Reservation lands include sites used by the Tribe for the Sun Dance and other religious and cultural purposes, burial sites, and medicine gathering areas.

SEC. 2. LAND TAKEN INTO TRUST.

(a) IN GENERAL., The land described in subsection (b) is hereby taken into trust for the Cheyenne-Arapaho Tribes of Oklahoma.

(b) LAND DESCRIBED. The land taken into trust pursuant to subsection (a) is that land in Canadian County, Oklahoma, described as follows:

(1) All of sections 1, 2, 3, and 4, Township 12 North, Range 8 West, Indian Meridian.

(2) Those portions of sections 25 and 26 lying south of the North Canadian River, Township 13 North, Range 8 West, Indian Meridian.

(3) That portion of section 26 lying west of the North Canadian River, Township 13 North, Range 8 West, Indian Meridian.

(4) All of sections 27, 28, 33, 34, 35, and 36, Township 13 North, Range 8 West, Indian Meridian.

SEC. 3. USE OF PORTION OF LAND BY BUREAU OF PRISONS.

The Secretary, with the consent of and on terms agreeable to the Business Committee

of the Tribe, may lease to the United States for use by the Bureau of Prisons of the Department of Justice in connection with the Federal Reformatory at El Reno, Oklahoma, all or part of the land described as the south half of section 1 and the south half of section 2, Township 12 North, Range 8 West, Indian Meridian.

SEC. 4. PRIOR EASEMENTS, LICENSES, PERMITS, AND COMMITMENTS.

(a) NONREVOCABLE; TIME-LIMITED.—(1) A nonrevocable easement, license, permit, or commitment with respect to the lands described in section 2 shall continue in effect for the period for which it was granted or made if such nonrevocable easement, license, permit, or commitment was granted or made—

(A) on or before the date of the enactment of this Act;

(B) by the Secretary of War or by the Secretary of Agriculture; and

(C) for a specified, limited period of time.

(2) An easement, license, permit, or commitment described in paragraph (1) may be renewed by the Secretary upon such terms and conditions as the Secretary considers advisable.

(b) REVOCABLE; INDEFINITE DURATION.—An easement, license, permit, or commitment which exists on the date of the enactment of this Act with respect to the lands described in section 2 may be continued or renewed by the Secretary if—

(1) the easement, license, permit, or commitment is revocable or of indefinite duration, and

(2) the Secretary considers such continuance or renewal to be in the public interest.

(c) USE OF LAND BY BUREAU OF PRISONS.—(1) In the case of lands described in paragraph (2), the Secretary may continue or renew an easement, right-of-way, or permit to land, only if such easement, right-of-way, or permit is—

(A) in effect on the date of the enactment of this Act;

(B) limited to use or maintenance of water lines, roads to and from the sewage disposal plant, or sewage effluent lakes from the sewage disposal plant located on the land;

(C) granted for use by Bureau of Prisons of the Department of Justice; and

(D) useful to the Bureau of Prisons for purposes of maintaining the sewage disposal plant located on the land.

(2) The land referred to in paragraph (1) is that land described in section 2 that is located in—

(A) section 1, Township 12 North, Range 8 West, Indian Meridian; and

(B) the southeast quarter of section 36, Township 13 North, Range 8 West, Indian Meridian.

SEC. 5. BUILDINGS AND OTHER IMPROVEMENTS.

The Secretary may—

(1) make any Federally owned buildings, improvements, or facilities (including any personal property used in connection with such buildings, improvements, or facilities) located on the land described in section 2 available to the Tribe for their use; and

(2) convey any Federal owned buildings, improvements, or facilities (including any personal property used in connection with such buildings, improvements, or facilities) located on the land described in section 2 to the Tribe in accordance with the Act entitled "An Act to authorize the Secretary of the Interior to convey to Indian tribes certain federally owned buildings, improvements, or facilities on tribal lands or on lands reserved for Indian administration" approved August 6, 1956 (25 U.S.C. 443a).

SEC. 6. ELIGIBILITY FOR FEDERAL SERVICES AND BENEFITS.

For the purposes of the eligibility for and delivery of all services and benefits provided to Indians because of their status as federally recognized, those members of the Tribe residing in Canadian County, Oklahoma, shall be deemed to be resident on or near an Indian reservation.

SEC. 7. EFFECT ON TREATIES.

No provision of this Act shall be construed to constitute an amendment, modification, or interpretation of any treaty to which the Tribe or any other Indian tribe is a party nor to any right secured to the Tribe or any other Indian tribe by any treaty.

SEC. 8. DEFINITIONS.

For purposes of this Act:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "Tribe" means the Cheyenne-Arapaho Tribes of Oklahoma.

SECTION BY SECTION ANALYSIS

Section 1: Describes the lands originally part of the Fort Reno reserve to be transferred from the Department of Agriculture to the Department of the Interior in trust for the tribes.

Section 2: In addition to the land retained by the Bureau of Prisons, this section authorizes use by the Bureau of Prisons of part of the transferred lands, subject to the approval of the tribes.

Section 3: Authorizes the continuation of current easements, licenses, permits and other current uses by the Bureau of Prisons for as long as the current uses continue.

Section 4: Authorizes, but does not require, that ownership of the buildings currently located on the lands may be transferred to the tribes.

Section 5: Recognizes members of the tribes who live near the tribal reservation as eligible for tribal benefits.

Section 6: Specifies that this legislation will not be construed as amending any treaty between the United States and any federally-recognized Indian tribe.

Section 7: Defines the term "Secretary" and "Tribe" with respect to the subject legislation.

THE IMPORTANCE OF MEANINGFUL HEALTH CARE FOR CHILDREN

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. MATSUI. Mr. Speaker, the bipartisan budget deal that President Clinton and Congress have agreed to includes a $16 billion fund to extend health care coverage to 5 million children over 5 years. The proposal before us, however, extends coverage to only 500,000 additional children a year. This is clearly insufficient.

One reason why so few children would obtain coverage is that the current proposal contains loopholes that allow the $16 billion fund to substitute for new cuts in Federal Medicaid spending. States would also be permitted to use the fund as a source of general revenue to cover costs totally unrelated to health care, such as paving roads and financing tax cuts. The funding intended for children essentially creates a new State slush fund with no accountability.

The proposal before us represents a wasted opportunity. Approximately 20 million children lack health insurance for at least part of the year. In California, almost 20 percent of all children lack health insurance. These are children of working families. Nearly 9 out of 10 uninsured children have at least one parent who works. Almost two-thirds of these parents work full time.

Changes must be made before we invest billions of dollars in a block grant that does not achieve its intended purpose. The Child Health Insurance and Lower Deficit Act (H.R. 1364) and the Child Health Insurance Act (H.R. 1363), legislation that I have cosponsored with Representative NANCY JOHNSON, contain provisions that, if adopted, would add necessary structure to the block grants and truly enable children to receive needed health insurance.

Proposals in these bills ensure that allocated funds would be appropriately directed to deliver solid health care coverage to more children. For example, States are directed to contract with insurance companies or community health center networks to provide services directly to children. Coverage would include access to pediatric primary and specialty care providers, including centers of pediatric specialized treatment expertise. In addition, the bills make sure that States provide a benefits package either equivalent to the Medicaid package or comparable to a standard plan currently offered under the Federal Employees Health Benefits Program. These basic requirements would not handcuff states; rather, they would create a structure that would guarantee that children in working families finally obtain meaningful health care.

We have a unique opportunity to achieve the laudable goal of insuring children. Yet if we do not add necessary safeguards and enhancements, we will not accomplish this goal. Let's not waste this opportunity.

A TRIBUTE TO THE BERNARDSVILLE NEWS

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to pay tribute to The Bernardsville News, an institution that has brightened the lives and expanded the horizons of north central New Jerseyans for the past century. This Saturday, June 28, 1997, The Bernardsville News and those that print it will celebrate its 100th anniversary. Mr. Speaker, I am honored and proud to be included in this wonderful celebration.

In the era of media moguls and mega mergers, where corporate behemoths like Disney and Ted Turner battle over billions, it seems nothing is consistent anymore. That is precisely what makes this hallmark so significant. For 100 years, the journalists and editors at The Bernardsville News have recorded the current events of New Jersey—the people, the places, and the effects they've had on our lives and communities.

The newspaper has been a mainstay of the community since its debut as The Bernardsville Beacon in February, 1897, followed by its second issue on March 6, 1897, when it appeared as The Bernardsville News.

The News has been guided by a series of five publishing families, starting with a local Presbyterian minister and his son in 1897, who founded the newspaper before selling it in 1902 to the H.C. Rowell family who in turn sold it to Levi and Helena Trumbull in 1907.

Levi Trumbull, 74 at the time of his purchase of the paper, ran the newspaper until poor health forced him into an ill-fated sale of the paper in 1915 to its competitors, The Bernardsville Recorder newspaper whose owners ran the paper for about 7 months, accumulated massive debts and disappeared.

That merger created the Recorder Publishing Co., however, which is the corporate name of the newspaper's publishing company today.

The Trumbull family reclaimed the newspaper in February 1916 and their son Carl Trumbull ran the newspaper until 1955 when his family sold to Charles McDermott.

McDermott added a second newspaper, The Mendham-Chester Tribune, and sold both newspapers to The Bernardsville News' current owners, Cortlandt and Nancy Parker, in 1957.

The Parker family is celebrating its 40th anniversary of ownership this year and has expanded the newspaper group from two community newspapers to 14 weekly newspapers, including two newspapers serving large condominium complexes in the area, with paid combined circulation of about 50,000 households in northern Somerset County, Morris County and northern Hunterdon County in central New Jersey.

The Parkers' four children follow the Parker tradition by maintaining an active involvement in producing these newspapers. This tradition of service has brought us a vivid chronicle of history and a record of events both current and past, and it has helped preserve many public and private institutions in New Jersey. For this we can only say thank you.

Readership is testament to initial quality of product. But longevity is testament to the commitment and dedication of professionals who have succeeded in keeping The Bernardsville News on every coffee table and front porch in Far Hills, Peapack-Gladstone, Bedminster Township and Bernards Township for the past 100 years.

Mr. Speaker, if the current quality of The Bernardsville News is any indication, I have every confidence that a similar group of grateful New Jerseyans will gather in 2097 for the 200th Anniversary Celebration of The Bernardsville News.

TRIBUTE TO CHARLES C. MILONAS

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. BONIOR. Mr. Speaker, today, I would like to congratulate Dr. Charles C. Milonas for his dedication to improving our educational system. On June 30, 1997, he will celebrate three decades of service on boards of education.

Throughout the years, Dr. Charles Milonas has been committed to providing better schools in Macomb County. In 1967, Dr. Milonas began serving on the Clintondale School Board as the treasurer and secretary. After 4 years, Dr. Milonas ran for a seat on the Macomb Intermediate School Board where he has served with distinction to this date. Over the years, he has also been an active member of the Macomb School Boards Association, the Michigan Association of School Boards, and the National School Board Association. His leadership and commitment have made him a key player in the education of the children in our area.

When he was growing up, Charles Milonas was a serious student who always placed a high value on education. After attending Northeastern High School, he went on to receive his B.S. from Wayne State University and his D.D.S. from Northwestern University Dental School. He completed his postgraduate work at Walter Reed Army Medical School and the University of Detroit. Dr. Milonas learned from his own experience how important it is to have a strong educational background. This is the legacy that he has passed on to the children of our community.

The dedicated involvement of Dr. Milonas has not been motivated by fame or fortune, but by his desire to inspire and guide children. Dr. Milonas has said, "We all should carry a magic light in our hearts to guide our children through the adversities of life." On behalf of the students and parents in the community, I would like to thank Dr. Charles Milonas for his dedication to education.

IN MEMORY OF JACQUES YVES COUSTEAU

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. FARR of California. Mr. Speaker, I come before you today to pay tribute to a man who is well-known around the world for his pioneering work in the field of marine research, conservation and education. Jacques Yves Cousteau passed away this morning in Paris, at the age of 87.

Jacques Cousteau was an inventor, an explorer, and a concerned citizen of our world. He invented a waterproof housing for an underwater movie camera in 1936, and in 1943, with French engineer Emile Gagnon created the Aqualung, which allowed divers to swim untethered underwater for several hours. Cousteau fought for the French in WWII, and the Aqualung was used by divers to locate and remove enemy mines after the war. In 1950 he purchased the ship *Calypso* from which to conduct his explorations of the world oceans, beginning the work for which he is perhaps best known: bringing the excitement of the oceans to the public.

He showed people around the world the beauty of ocean ecosystems, exploring the depths with a sense of adventure, exposing the oceans as the last earthy frontier to be explored, as exciting and amazing as any exploration into space. He lectured, produced amazing underwater photography, and published many books. Two of his films, "The Silent World" (1956) and "World Without Sun" (1966) won Academy Awards for best documentary. His television program, "The Undersea World of Jacques Cousteau" (1968–1976) also brought the marvels of his expeditions and the undersea world into American homes, as well as the lasting image of him, jauntily smiling from the deck of the *Calypso*, clad in his black rubber wetsuit.

In 1974 he began The Cousteau Society, an organization whose membership now totals over 300,000 worldwide, to help raise public awareness of ocean issues and help promote wise management of our ocean resources. His work did not end at the shore, however, and he was active on many environmental issues, including the potentially devastating effects of overpopulation. He was awarded the Medal of Freedom by President Ronald Reagan in 1985, and in 1989, was honored by the French with membership in the French Academy.

He inspired many to love the sea, and to pursue careers in marine science. My district, the Monterey Bay area of California, has been particularly blessed in its connection to an incredibly diverse and abundant marine environment. Off our shores we have the Monterey Bay National Marine Sanctuary, the largest marine protected area in the country, encompassing environments that vary from the rocky intertidal to the incredible depths of the Monterey Canyon. Around the bay we have 18 institutions with world class, ongoing research in the marine environment. Over 1.7 million people visit our Monterey Bay Aquarium each year, to witness the amazing life we have off our shores, and to educate themselves about ocean life and human impacts which threaten it.

All ocean scientists, educators and managers owe a debt of gratitude to Jacques Cousteau for raising the public awareness and support of marine research and conservation.

In a recent interview, Cousteau was asked the question "Which area of pollution worries you the most?", to which he responded "I don't make a separation, I worry about the entire system. Our way of managing the Earth is wrong."

I would leave you with the thought that we can no longer plead ignorance of our aquatic environments. Through the work of Jacques Cousteau, and thousands of other marine scientists, we are now more aware than ever of the amazing wonder and fragility of our ocean ecosystems. But our greatest tribute to this man, and this knowledge, should be the efforts we make to ensure the protection and wise management of our ocean resources.

CONGRATULATIONS TO THE RED DEVILS OF MAPLESVILLE HIGH SCHOOL

HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. RILEY. Mr. Speaker, I rise today to recognize an outstanding school from my home district. Maplesville High School, while not only committed to academic excellence, has achieved an amazing accomplishment. On May 16, 1997, the Red Devils captured the State title in Class 1–A baseball, finishing up with the school's first 30-win season. While this victory is impressive, the win's significance is only compounded when added to the string of victories the school has posted during the last 2 scholastic years. During the years 1995 through 1997, the students of Maplesville combined to win four 1–A State titles in three separate sports, including football, girl's basketball, and twice in boy's baseball.

I would like to commend the students of Maplesville High School and state that it is not only an honor for me but for all the people who are a part of Maplesville to recognize these athlete/students' achievements. The courage they displayed in pursuing their victory is indicative of the character traits—including dedication, a strong work ethic, and pride—we all hope today's students graduating from high school possess. The four trophies that stand vigil at Maplesville are poignant reminders of the accomplishments and the victories that the students earned. These trophies are also testimony to the aspirations a group of people can achieve if they are willing to work as a team, aiming at a common goal.

Though the State championships the school have amassed are quite impressive, I would also like to call attention to the fact that these student/athletes, who have balanced both academics and sports, have managed to collectively excel beyond expectation, persevering in the face of adversity. Each of these teams have achieved what no other in the State of Alabama can boast—they are No. 1 and the best in Alabama.

HONORING CALIFORNIA HIGHWAY PATROL OFFICERS LARRY STEINKRAUS AND NICK BASSOLINO

HON. WALTER H. CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. CAPPS. Mr. Speaker, I rise to pay tribute to the selfless dedication of the men and women of the Department of the California Highway Patrol. The CHP was created on August 14, 1929, with the sole purpose of insuring safety, security, and service for the public. Today, the CHP is served by over 6,700 men and women.

Two examples of the dedication and service to the driving public and specifically to the residents of the 22d Congressional District of the State of California are retiring Officers Larry Steinkraus and Nick Bassolino. Both officers served the country in the military before entering law enforcement. As the commercial officers assigned to secure the safety of the roads of our community they were personally responsible for removing over 11,600 unsafe commercial vehicles over the last 12 years. Officer Steinkraus served as a California Highway Patrol officer for over 28 years in total and Officer Bassolino served 30 years.

Mr. Speaker, today we honor Officer Larry Steinkraus and Officer Nick Bassolino as they retire from their brilliant careers in public service. They have truly displayed the courage, honesty, and professionalism that the California Highway Patrol brings to the residents of the State of California.

INTRODUCTION OF GOOD CORPORATE CITIZENSHIP AND FEDERAL PROCUREMENT INCENTIVES ACT

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. SANDERS. Mr. Speaker, at a time when some American corporations commonly use large-scale layoffs in order to reap hundreds of millions of dollars in profits on the stock market, demand give-backs in order to pit American workers in competition with cheap, unprotected foreign workers, and invest overseas to escape health, safety, and environmental standards here at home, we do not believe that the United States Government should be rewarding such shortsighted companies with billions of dollars in federal contracts vis-a-vis companies that are good corporate citizens here at home and overseas. Instead, we should be using the purchasing power of the Federal Government to reward socially responsible and environmentally responsible companies.

Every year the U.S. Government buys more than $200 billion in goods and services, ranging from weapons systems to cleaning supplies, making it the largest customer in the American marketplace. This purchasing power needs to be harnessed—through targeted procurement preferences—and used as an engine of progress and as a powerful source of marketplace leverage to reward exemplary corporate behavior in the bottom line.

The economist Adam Smith recognized that free markets, left to their own devices, do not deal with matters of economic justice and social equity, let alone environmental sustainability. In that vein, our Federal Government should also be doing more than just trying to save a buck. Uncle Sam should be an enlightened consumer and encourage more of the business community to practice good corporate citizenship. Just as with the individual citizen, the good corporate citizen should be expected to act ethically and should be rewarded accordingly in the marketplace. That means not only acting responsibly as a company in producing goods and services, but also responding to the needs and interests of host communities as well as employees and customers. This approach is far from revolutionary because companies of all sizes and sectors have realized that good conduct can result in long-term profitability. That is why more than 100 U.S. companies have already adopted codes of conduct to govern their internal operations and external affairs.

My colleagues, Congressmen EVANS, FILNER, LIPINSKI, and LEWIS join me today in introducing legislation to give a substantial preference, when bidding on Federal contracts, to companies that adopt and enforce a corporate code of conduct and open their operations to outside monitoring of compliance. In other words, priority will go to companies which provide a safe and healthy workplace, avoid racial or gender discrimination, comply with laws that ensure fair competition, and uphold a responsible environmental record at home and in their overseas operations.

Specifically, our bill—the Good Corporate Citizenship and Federal Procurement Incentives Act—does the following:

Requires the director of each Federal agency to establish procedures to give a preference to contracting with companies that have adopted and are enforcing codes of conduct;

Requires that corporate codes of conduct build upon the workplace code of conduct recently agreed upon by the Apparel Industry Partnership as well as the model business principles developed and announced in 1995 after lengthy White House consultations with business leaders, public interest groups, and concerned individuals;

Ensures that all employees are well informed about the specific provisions of the corporate code of conduct adopted by their employing company;

Establishes an annual Federal interagency review, a public petition process, and public hearings to be spearheaded by the U.S. Department of Commerce to investigate and determine whether companies that have been awarded preferences are, in fact, complying with and enforcing their corporate codes of conduct;

Allows any person or organization—including independent monitors—with pertinent factual information to file a petition and request a public hearing on evidence that a company that has received or is receiving a procurement preference is not in compliance with its own corporate code of conduct; and

Authorizes Federal agencies to take into account when extending trade mission support, OPIC/EX–IM Bank assistance and other taxpayer-financed benefits and to withdraw, suspend, or limit procurement preferences awarded on a contract or company basis or both as a result of investigations and public hearing(s) in which it is determined that a company is not enforcing its corporate code of conduct. The decisions of Federal agencies in this regard would also be subject to judicial review.

Mr. Speaker, this is very timely and groundbreaking legislation to give a significant preference in the awarding of more than $200 billion in Federal contracts to U.S. companies that practice good corporate citizenship day in and day out.

TRIBUTE TO CLARA BARTON HIGH SCHOOL

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. OWENS. Mr. Speaker, I rise today to pay tribute to the students of Clara Barton High School of Brooklyn, NY. They have not been celebrated as sports heroes. They are not entertainment celebrities. But a tradition has been established in academic excellence at Clara Barton High School. These students have tirelessly dedicated themselves to achieving academic excellence.

Clara Barton High School recently won fourth place in the "We the People * * * The Citizen and the Constitution" competition sponsored by the Center for Civic Education. This national competition is organized to encourage young people to learn more about our Constitution and how our Government works. In this competition, students demonstrate their knowledge of the Constitution and the Bill of Rights before simulated congressional committees composed of constitutional scholars, lawyers, journalists, and Government leaders. Students compete as classes after completing a comprehensive course of study on the Constitution to qualify for the competition. The national finalists must win congressional district and State competitions to advance to this point.

This is the second time Clara Barton has placed fourth in the contest and the sixth time that they have made it to the national finals as State champions. It is quite evident that something great is going on at Clara Barton High School. I congratulate the members of the team from Clara Barton High School in my district in Brooklyn. My hat goes off to you. I want to congratulate each student because I think this is part of the process of creating an environment in America where education is exalted, where academic and intellectual activities are raised to a new level. We must create an atmosphere where our students are inspired and given incentives to strive for excellence.

These are the students who strive for excellence in understanding the Bill of Rights and the Constitution: Nicole Aljoe, Munira Basir, Letricia Bennett, Michelle Bennett, Katherine Bernard, Slahudin Bholai, Dafina Westbrook-Broady, Keusha Carrington, Shakira Chang, Calvin Coleman, Dean Douglas, Nirva Dube, Iesha Etheridge, Jonathan Ewars, Migdalia Feliberty, Sean Forde, Sharkara Godet, Oslen Grant, Moshesh Harris, Rochelin Herold, Christopher Hubbard, Sonia Hurble, Tiffany Jefferson, Generva John, Anthony Marin, Anisah Miley, Travis Moorer, Calistia Nanton, Franchelica Nunez, Damian O'Connor, Ayo Ogun, Emmanuel Onasile, Tamara Osbourne, Charlene Palmerm, Carolina Perez, Natalie Pierre, Raquel Rivera, Tanisha Simpson, Camille Sinclair, Vysaisha Singh, Vijay Sookedo, Sharon St. Hill, Karrien Stone, Naquida Taylor, and Andrea Telford.

The students at Clara Barton High School come from very diverse socioeconomic and ethnic backgrounds. It was the most diverse team to appear at the national contest. The diversity of my district is reflected in the names of these children. My district has Cambodian, Chinese and Pakistani residents. There are a whole array of people from all of the islands of the Caribbean including Haitians. It is a wonderful mixture, and represents a part of America's rainbow.

I wish to congratulate Dr. Leo Casey who was the teacher and coach of the Clara Barton team. Thanks to Dr. Casey such a winning tradition at Clara Barton High School has been established. This clearly shows his talent for nurturing the academic achievements of the students. I also want to congratulate Mrs. Florence Smith, a former high school teacher, who served as the volunteer coordinator for my office. If Members want to talk about volunteer services in harmony with the great conference recently held in Philadelphia here is an example of the kind of volunteers that we have in America. There are committed people who retire and, in some cases, spend more time in volunteer activities after retirement than they did when they were working.

Congratulations to all the people who made it happen. In my congressional district, the Clara Barton High School team is sponsored not only by my office but by the Central Brooklyn Martin Luther King Commission. In fact, the money raised to first send this team to Albany and Washington, DC was gathered by the Central Brooklyn Martin Luther King Commission. There are some other organizations that have also become sponsors. Children's Times is a publication on education. Judge Thomas Jones and his wife have been very instrumental in encouraging the young people at Clara Barton High School and in raising money to make certain that they were able to go to Albany and Washington, DC. So it has become a group enterprise of great magnitude. It is one of those activities that we should see more of nationwide.

I salute the Clara Barton High School championship team from the 11th Congressional District of New York for their outstanding performance. I would also like to congratulate all the schools and all the youngsters across America who are champions in intellectual and academic activities.

TRIBUTE TO GENE MEYERS

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. PASCRELL. Mr. Speaker, Mrs. ROUKEMA of New Jersey and I would like to call to your attention Gene Meyers of Hawthorne, New Jersey.

Gene is a lifelong resident of Hawthorne and graduated from Hawthorne High School. He is a founding member of the Hawthorne Chamber of Commerce and was a catalyst in making it one of the largest Chambers in North Jersey. He served in many capacities with the Chamber of Commerce including President and has been integral in implementing the Chamber's goal of making Hawthorne a more vibrant community.

Gene has been President and CEO of Hawthorne Chevrolet for three decades. Hawthorne Chevrolet was founded by his uncle, Fred C. Meyers in 1927, and Gene built the company to be the success it is today. The company is one of the largest Chevrolet Dealerships in the State of New Jersey and ranks in the top 60 in the country. Gene has also been the President and CEO of Paramus Auto Mall since 1995 and has served as President of the Tri-State Dealers Association, an association of Chevrolet dealers in New York, New Jersey and Connecticut.

Gene further prioritizes community through his involvement with the Hawthorne Boys and Girls Club. He serves as a member of the Board of Directors and calls Bingo every Sunday night. Even though he has been successful, he has not forgotten what is important. Gene is President of the Hawthorne Republican Unit.

Gene and his wife Florence are the proud parents of Mark, Cindy, Steven, Ron and Scott, and they have three grandchildren, Steven, Michelle and Jamie.

Mr. Speaker, we ask that you join us, our colleagues, Gene's family and friends, and the Borough of Hawthorne in recognizing Gene Meyers' outstanding and invaluable service to the community.

DR. BETTY SHABAZZ

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mrs. KENNELLY of Connecticut. It is with great sadness that I mark the passage of one of our generations' remarkable women—Dr. Betty Shabazz. She first became known to us in tragedy, and she leaves us in tragedy. But in the 30 years between her husband's assassination and her own death, she led a life filled with family, friends, and achievement.

One of her daughters said she wanted to think of her mother's death as a transition. And that would be a good way to think of her life as well. She lived all the drama and change of her generation. We saw her transition from a young woman, mother of six little children, who had seen her husband murdered before her eyes to a universally admired speaker for social justice and civil rights. We came to know her as a respected professional in the fields of nursing, public health administration, and education. To those closest to her, she was mother, confidante, friend. But to many others, she was role model, trailblazer, and inspiration. America is richer for her life and her contributions, and she will be greatly missed.

The love Betty Shabazz bore her husband survived his death. The love she bore her children and their children will survive her death. I know I join with my colleagues in offering my deepest sympathy to her family.

CITYHOOD FOR CITRUS HEIGHTS

HON. JOHN T. DOOLITTLE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. DOOLITTLE. Mr. Speaker, I would like to call to your attention a very momentous occasion which will be taking place in my district. Next week, in recognition of a 12-year effort that went all the way to the United States Supreme Court, thousands of my constituents will join together to celebrate the recent incorporation of the City of Citrus Heights.

On November 5, 1996, by a vote of 62.5% to 37.5%, Cityhood for Citrus Heights was finally achieved. Its 14.2 miles and 88,000 residents makes it the largest city to incorporate in the State of California and the first new city in Sacramento County in half a century.

On that same day, the residents of Citrus Heights also elected five City Council members to represent them and carry forth the City's mission statement of commitment to providing high quality, economical, and responsive services to their community.

It gives me great pleasure today to recognize those inaugural Citrus Heights City Council members before the U.S. House of Representatives: Honorable William C. Hughes, Mayor, Honorable Roberta MacGlashan, Vice Mayor, Honorable Alma E. Kenyon, Council Member, Honorable Tim Raney, Council Member, and Honorable James C. Shelby, Council Member.

Mr. Speaker, you will also be interested to learn that Citrus Heights was first known in the 1850's as Sylvan and was settled by miners who raised livestock in the hills northeast of Sacramento. A real estate developer renamed the area to Citrus Heights in 1910 in an attempt to attract more settlers from the Midwest.

In 1859, Sylvan School was built and, in 1862, moved to Sylvan Corners. In 1928, the school building was renovated into a clubhouse and moved to a half-acre lot on Sylvan Road, where it currently stands and where Citrus Heights' time capsule will be buried later this month.

One of Citrus Heights' main streets, Greenback Lane, was a dirt wagon road in the 1860's and 1870's and received its name when the County paid landowners in "greenbacks" worth about 30 cents to the dollar.

Citrus Heights has one of Sacramento County's leading retail centers—Sunrise Mall—which is hosting the five-day celebration of Citrus Heights' incorporation. The "City Lights for Downtown Citrus Heights" grand celebration begins on July 1 with the "State of the City" celebration and culminates with "The Ball on the Mall" on July 5.

Mr. Speaker, I ask that you join me, our colleagues, the residents of the City of Citrus Heights and Sacramento County in celebrating Citrus Heights' long-awaited and well-deserved entry into "Cityhood."

TO RECOGNIZE THE INTERNATIONAL CHARACTER OF LITTLE LEAGUE BASEBALL INCORPORATED

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. McDADE. Mr. Speaker, today I rise to invite my colleagues to join with me in supporting Little League Baseball by cosponsoring the resolution I have introduced to recognize the international character of Little League Baseball Incorporated.

In 1964, Little League Baseball was incorporated by the Congress in Public Law 88–378. The Little League Baseball incorporating legislation was approved unanimously in both the House and the Senate. It was signed by President Lyndon B. Johnson on July 16, 1964.

At that time, we in the Congress recognized the unique contribution of Little League Baseball to our Nation's young people. Little League involvement has long provided a valuable outlet for healthy activity and training under good leadership in the atmosphere of wholesome community participation for generations of Americans. It teaches not just the rudiments of the game but the basics of teamwork and fair play that children need to become good and decent citizens.

The original law set out the objective and purpose of Little League Baseball. It was "to promote, develop, supervise, and voluntarily assist in all lawful ways the interest of boys who will participate in Little League baseball."

Today, Little League Baseball Incorporated is active in promoting and supervising youth—both boys and girls—worldwide in participating in Little League. It has chartered more than 18,000 baseball or softball leagues in 85 countries, across six continents.

Little League Baseball is planning a new facility—the Little League Baseball European Leadership Training Center—which will provide a home for clinics and training programs and will serve as the site for the European Little League Baseball playoffs. It is to be located in Kutno, Poland.

The Center will be a 35-acre complex to host baseball sports clinics, adult volunteer training programs as well as youth development programs.

Unfortunately, although the Polish Little League Baseball Foundation established to direct the construction of the facilities and playing fields in Kutno is a nonprofit organization, they are being denied an exemption from the Polish Value-Added Tax.

Since the Polish Finance Ministry does not classify Little League Baseball as an international organization, the VAT will be applied to the approximately $4 million for the project.

The application of the VAT could cost this charitable organization up to $880,000.

Let's clarify for the world to know—Little League Baseball Incorporated is a worldwide, international organization. It should be accorded all of the benefits and privileges available to nongovernmental international organizations.

I'd ask all my colleagues to cosponsor this resolution to say to the Polish Finance Ministry—Let's play ball!

TRIBUTE TO MILDRED JONES

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mrs. LOWEY. Mr. Speaker, I wish to pay tribute to a remarkable woman from my district who recently left us.

For more than 40 years, Mildred Jones served her community and nation. She represented the World YWCA at the United Nations for 15 years, worked for UNICEF, chaired the Mission Commission in the 1990s, and helped organize several international conferences on women—including the 1995 Beijing Conference. Closer to home, she served her community at the White Plains Presbyterian Church, soliciting support for programs that provide food and shelter to the homeless and housing for senior citizens.

Mildred Jones touched the lives of people all over the world. She will be sorely missed. Mr. Speaker, in her honor, I wish to have portions of her 1997 United Presbyterian Church "Woman of the Year" nomination included in the RECORD for all to read. May she inspire each and every one of us.

WOMAN OF THE YEAR NOMINATION UNITED PRESBYTERIAN CHURCH, USA 1997

Mrs. Jones represented the World YWCA at the United Nations from 1971 until 1996. As a representative of a non-governmental organization at the UN, she chaired the NGO committee for UNICEF. During the International Year of the Child in 1979, she worked professionally in the UNICEF office and was the U.S. representative and side to Canon Moerman, head of the UN's International Year of the Child.

In her work with UNICEF, Mrs. Jones was instrumental in aggressively promoting a boycott of the Nestle Company to combat the marketing of baby formula milk to mothers in African countries. (Formula milk requires the addition of water, and the water in many African communities was typhoid-ridden. UNICEF presented alternative educational programs for breast feeding.)

As a church elder and chair of the Mission Commission in the 1990's, Mrs. Jones was an important spearhead in developing a Mentoring Program involving church members who work with the children of homeless families living in temporary housing.

Throughout her more than 40 years of service to the YMCA, UN and UNICEF (as well as her concurrent service in the White Plains Presbyterian Church), Mrs. Jones has worked creatively and effectively for the well-being of children. She helped organize international causes to reduce high child-mortality rates by means of methods such as breast-feeding, immunization, oral rehydration therapy, and growth monitoring. Helping to empower the powerless does not happen without critics. During the planning for the International Year of the Child, Mrs. Jones received an angry letter from an executive in a prominent woman's organization demanding that the U.S. withdraw support for the IYC because it was a "Communist Conspiracy". Mrs. Jones firmly rejected that idea, pointing out that, in fact, the Soviet Union had refused to participate in the IYC, stating that their children were well cared for and didn't need help.

In her mission work with the White Plains Presbyterian Church, Mrs. Jones was active

in gaining support for several outreach programs: SWAP (a program to renovate old buildings in inner-city Yonkers); Ecumenical Emergency Food Pantry; Kingsley House (a senior citizens' apartment house jointly funded by the White Plains church and New York State); and SHORE (Sheltering the Homeless is Our Responsibility, a community-wide program).

Mildred Jones served on the Board of Directors of the National YWCA, 1955–1970, and was vice-president of the Board, 1967–1970. She was a member of the Executive Committee of the World YWCA, 1967–1975, and VP of the World YWCA, 1971–1975. As part of her UN and UNICEF work, Mrs. Jones helped organize three world conferences about and for women (Mexico, Copenhagen and Beijing.) She was a model for women in her church work, also: one of the first women to be ordained an elder in White Plains, Clerk of Session for eight years, a member of Session, off on an, for nearly 25 years.

HONORING SMITHVILLE FIDDLERS' JAMBOREE AS AN OUTSTANDING NATIONAL JAMBOREE AND CRAFTS FESTIVAL

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. GORDON. Mr. Speaker, I rise today to acknowledge the Smithville Fiddlers' Jamboree and Crafts Festival and The National Championship for Country Musician Beginners which are a great source of civic and cultural pride in Smithville, Tennessee.

As a matter of fact, it was recently named the Official Jamboree and Crafts Festival of the State of Tennessee. Since the Festival's inception in 1972, attendance has grown from 16 States represented and 8,000 people present to 44 States and four foreign countries represented with over 110,000 people attending in 1996.

The Smithville Jamboree has set high standards of excellence for music, crafts, hospitality and fellowship. The Jamboree has been televised each year and broadcast worldwide, and has even had the distinction of being featured in the National Geographic Traveler and Southern Living. An example of how popular the Annual Jamboree has become worldwide, was its recent listing in the International Datebook of the New York Times on Sunday, June 8.

The Jamboree and Festival, which is held annually over the Fourth of July holiday, has been named one of the top 100 tourist events in North America, according to a list compiled by the American Bus Association. Additionally, the Jamboree has been selected as a "Top 20 Tourist Favorite" by the Southeast Tourism Society, which includes the states of Tennessee, North Carolina, South Carolina, Georgia, Florida, Mississippi, Louisiana, Alabama, and Virginia.

I congratulate the founders of this event, the staff, and volunteers who have kept and continue to keep this piece of American tradition alive. I further recognize the local community organizations who have worked so diligently to make this event a success year after year. They include: Smithville/DeKalb Chamber of Commerce, Rotary Club, Merchants Association, Smithville Volunteer Fire Department and local individuals who begin planning in early January. They work all the way up until a new Champion Fiddler of the Upper Cumberland and the National Championships for Country Music Beginners are announced.

As always, the 1997 Jamboree and Crafts Festival stands to be recognized as the best ever. On behalf of all those who dedicate their hard work and effort to making this event possible, I encourage all who might be traveling through the great State of Tennessee to stop off, kick back and enjoy this time honored tradition of old-time Appalachian country music, dance, and authentic Appalachian art and culture.

INTRODUCTION OF THE PUBLIC VOICE CAMPAIGN REFORM ACT OF 1997

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. FORD. Mr. Speaker, at the beginning of the 105th Congress, the President challenged Congress to enact campaign finance reform legislation before the Fourth of July. As we approach this landmark date, Congress has yet to hold the first hearing on campaign finance reform legislation. At the same time, both political parties continue to aggressively solicit soft money from corporate donors, while the Federal Election Commission, the body charged by Congress with enforcing our election laws is starved for cash and is immobilized by partisan gridlock.

Today, I will introduce campaign finance reform legislation to strengthen enforcement of election laws, increase disclosure, ban soft money and provide reduced broadcast time to political candidates. For too long, the Federal Election Commission has been a paper tiger in a jungle of money-dominated campaigns. President Clinton has stated that in order to clean up campaigns and strengthen the FEC, "we need a clean break from the past." This legislation gives us a chance to break from the past by requiring the President to appoint an independent seventh Commissioner recommended by the existing six members. The seventh Commissioner would serve as Chairman, and all of the Commissioners would be limited to one 6 year term. Under the current law, the Commission is split evenly between Democrats and Republicans.

Furthermore, Mr. Speaker, this bill will allow the FEC to charge a filing fee for candidates, political committees and parties who meet minimum thresholds of financial activity. This provision will give the agency a degree of financial independence that the Congress refuses to give it in annual appropriations. It has been endorsed by the eminent scholars Thomas Mann of the Brookings Institution and Norman Ornstein of the American Enterprise Institute.

The bill also restores the FEC's ability to conduct random audits of candidates, PACs and parties, and allows the Commission to refer a case to the Justice Department as soon as the FEC believes there may have been criminal activity. These two provisions and others in the bill have been recommended by the author is of the respected University of Southern California campaign finance study entitled New Realities, New Thinking.

The pervasive influence of money in politics, especially soft money, has tainted our political process and threatens to eclipse the fundamental principle that every person's vote counts the same. I applaud the President's recent call to strengthen the FEC and ban soft money, Mr. Speaker. Now it is time for the Congress to act. This legislation will restore fairness to our political process by banning soft money.

Further, it will require broadcasters, who stand to benefit from the use of digital airwaves—channels which belong to the public—to fulfill their public interest obligations by offering reduced television time to political candidates. In the past 25 years, spending by political candidates and political committees has risen dramatically. In 1972, candidates spent $25 million on television advertising. In 1996, candidates spent $500 million on political advertising. The high cost of television advertising requires candidates and incumbents to spend a disproportionate amount of time raising money, has increased the influence of special interests, makes it difficult for challenges to compete with incumbents, and interferes with candidates' efforts to communicate with voters.

In the 1996 election cycle, over $2 billion was spent on Federal elections. Over $266 million of this was in unregulated soft money. This constituted a 224% increase in soft money spending by the Republicans and a 257% increase by Democrats. Soft money has become the legal loophole through which candidates and parties are driving a mack truck, and it is time to close this loophole once and for all.

Mr. Speaker, 22 years ago Congress created the Federal Election Commission because, in the words of the agency's charter, "our representative form of government needed protection from the corrosive influence of unlimited and undisclosed political contributions." As we approach the celebration of our nation's birth, let's give the American people a gift that will stem their distrust and cynicism of our political system. Let's fulfill the obligation we made to them in 1975 by enacting meaningful campaign finance reform legislation.

IN MEMORY OF MISSOURI NEWSMAN WILLIAM LESTER "LES" SIMPSON

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. SKELTON. Mr. Speaker, on Monday, June 16, 1997, the State of Missouri lost a distinguished citizen. William Lester "Les" Simpson of Odessa, MO, passed away in Lexington, MO at the age of 88.

In 1926, Mr. Simpson started a lifelong career in the news business at his father's Rolla

(MO) Times. In 1944, he and his wife Madeline bought the Holden Progress, where he became publisher. In 1990, they moved to Odessa, where he resided until his death.

Mr. Simpson was a member of the Missouri Press Association, serving as president in 1957, and the Central Missouri Press Association, of which he was president in 1950. He was inducted into the MPA Hall of Fame in 1992. He was also the recipient of distinguished service awards from Northeast, Northwest, and Central Missouri press associations and received the Merril Chilcote Award in 1995 from the Northwest Missouri Press Association. Mr. Simpson also served on the board of regents at Central Missouri State University in Warrensburg, MO from 1959–77, serving as board vice president from 1961–65, and president from 1965–71. He received the CMSU Distinguished Service Award in 1995.

Mr. Simpson was a 50-year member of the Holden Masonic Lodge and Order of Eastern Star. He was past president and member of the Holden Chamber of Commerce and a member of the Ararat Shrine of Kansas City.

He was preceded in death by his wife Madeline in 1992, as well as three brothers and one sister. He is survived by a daughter, Betty Spaar of Odessa, who continues in her father's footsteps as the publisher of the newspaper, The Odessan. Also surviving are three sisters, five grandchildren, and a great-grandson. I know that this body joins me in expressing sympathy to the family of this outstanding Missourian.

HAPPY 150TH BIRTHDAY TO THE CITY OF NEW BEDFORD

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. FRANK of Massachusetts. Mr. Speaker. One of the legislative accomplishments of which I am most proud is my role, along with others in the Massachusetts Congressional delegation, in securing passage last year of the legislation which created a national park in the City of New Bedford, commemorating the City's crucial role as a world whaling center. The fact that New Bedford played a leading role in the history of whaling is of course chronicled most famously in Herman Melville's Moby-Dick, but, although the whaling industry has long since moved elsewhere and now largely come to an end, the city is still a remarkable storehouse of information on the history of whaling, and the establishment of the national park will bring that story to millions of visitors in the coming years.

While the people of New Bedford are looking forward to sharing that history—and the many other important contributions their city has made to American culture—they have been celebrating their history on their own for decades. In fact, I was honored to have had the chance to participate in a parade in April in honor of the 150th anniversary of New Bedford's incorporation as a city, an event attended by more than 50,000 people. Of course New Bedford as a community has existed much longer than 150 years, but it is surely no accident that its incorporation as a city dates to the heyday of the whaling industry there. Since 1847, New Bedford, like so many other American cities, has gone through many changes and many stages of economic development, but its residents have continued to work to make the city a better place to live, while still preserving its wonderful history.

And New Bedford has been an extraordinary city indeed. Beyond its role in the whaling industry, New Bedford has been the home of many "firsts" and other important events in American history, and I would like to take note of several. It is no surprise that the city was involved in a number of key maritime events, including, in the 1770s, the construction of Old Ironsides by George Claghorn, a New Bedford resident and ship builder. Also, in 1783, the American Ship *Bedford*, owned by William Rotch, Jr. of New Bedford, became the first vessel to display the American flag in English waters. And, it was in 1896 that the city's Joshua Slocum competed the first solo trip around the world in his sloop "Spray."

The city also played a key role in the fight for an end to slavery, and for fair treatment generally of African Americans. It was an important site on the Underground Railroad, and in 1838, a fugitive slave and his wife traveled to New Bedford from Newport, Rhode Island at the invitation of two quakers who invited him to share their carriage. Upon arriving in New Bedford, where he lived for several years and played an active role in the Underground Railroad, this former slave took the name of Frederick Douglass, and, under that name, became one of the best known African American authors and activists in our nation's history. In 1848, Lewis Temple, an African American blacksmith invented the Temple Toggle Harpoon, which revolutionized the whaling industry. And, in 1863, Sgt. William Carney of New Bedford saved the American flag in a Civil War battle at Fort Wagner, where he fought with members of the Massachusetts 54th Regiment, made up of black soldiers (a battle depicted in the film "Glory"). Sgt. Carney was later the first black recipient of the Congressional Medal of Honor.

Other New Bedford historical events of note include the 1853 opening of the city's Free Public Library (this was the nation's second free library, opening its doors just weeks after the first opened in Boston); the 1871 founding of St. John the Baptist Catholic Church, the first Portuguese Catholic Church in North America; and the 1874 writing of "Robert's Rules of Order" by Captain Henry Robert, then stationed at the city's Fort Taber (which was designed by Robert E. Lee).

Beyond these specific events, the history of New Bedford illustrates the strengths and challenges of older industrial area in our country from the latter half of the nineteenth century through the end of the twentieth. Most important, it demonstrates the importance of the commitment and character of a city's residents in creating a vibrant community.

The whaling industry which was so essential to New Bedford has of course ended as an ongoing commercial activity. But, the city remains one of the centers of fishing in the world, and one example of the creative spirit of the people of New Bedford is the extent to which they have blended the maritime history of the city into its ongoing economic life. Too often in America respect for history and tradition is somehow considered to be a detraction from a concern with current economic activity. Indeed, many urban areas in this country during the middle part of this century, began, in one way or another, to separate their waterfronts from their main commercial centers. In New Bedford, however, the waterfront has always had an important place of pride in the economic life and culture of the city, and this experience is a graphic repudiation of the idea that tradition and economic activity must perpetually be in conflict. Rather, as shown so clearly in New Bedford, they can be mutually reinforcing to everyone's benefit.

New Bedford also has a proud history as one of the industrial centers of this country, serving as an important hub of the garment and textile industry. While this has meant that the city—and the region—has also become an example of the shortsightedness of national trade and industrial policies which often promote the interests of some at the expense of others, once again, the spirit of the people of New Bedford has been strengthened by these adverse trends. And, now in its 151st year, New Bedford continues to strive for economic expansion that takes full advantage of twenty-first century norms. The city is striving hard for a number of improvements in the transportation grid which serves the region, and which, when brought to fruition, hold great promise for significant economic expansion.

Another area where New Bedford has an important lesson for the rest of the country is in dealing with the consequences of past environmental damage. Until fairly recently in our nation's history we paid very little attention to the negative effects of air and water pollution. For the past twenty-five years we have worked hard to address the environmental problems that have arisen in cities and towns throughout the country. New Bedford, as one of the older industrial areas of the country, was not immune from the effects of the pre-environmental regime in which so little attention was paid to the cleanliness of our air and water. But, today, in cooperation with the Environmental Protection Agency, which has shown a great deal of responsiveness to the City's needs, New Bedford is an example of how to proceed in a constructive fashion to address past environmental difficulties while maximizing current economic potential. With the ongoing work to restore the city's harbor, ensure the protection of Buzzards Bay's waters, convert abandoned manufacturing sites into opportunities for new economic growth, explore the potential of aquaculture, and in so many other ways, the people of New Bedford continue to strive for an appropriate balance between sensitivity to the environment and economic growth.

Finally, New Bedford reminds America of a lesson which, sadly, the country appears to be very much in need of remembering: the importance of immigration in building this great country, culturally, socially and economically. As a port, New Bedford has long been a center of immigration. Today, people continue to immigrate in large numbers to the area from Portugal, the Azores, Madeira and the Republic of Cape Verde. All continue to be a source of vitality for the city, and those of us who

point to the industrious and valued work force that constitutes one of the city's great assets know that immigration is a major factor in the composition of the work force. Furthermore, the city's example is an excellent argument in favor of a continuation of the generous attitude toward immigration that the United States has traditionally held, but which, unfortunately, is now being questioned in some quarters.

Mr. Speaker, in the years ahead at the appropriate anniversaries on which people take stock of the city's condition, I believe we will be able to look back to today as a period when the people of New Bedford, working together as they have so often in the past, continued to make important strides in both transforming the city's economy to prepare it for the twenty-first century and in preserving its incredibly rich legacy. I have represented New Bedford in the United States House of Representatives since January of 1993, and in that capacity it is a great honor as well as a distinct pleasure for me to join in celebrating with the people of the city on this glorious 150th birthday.

EXTENSION OF REMARKS IN SUPPORT OF BILL TO REFORM THE EXPORT-IMPORT BANK TO BE MORE RESPONSIBLE TO AMERICAN JOBS

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. SANDERS. Mr. Speaker, I rise today in support of a bill which I introduced today, with Mr. LIPINSKI of Illinois and Mr. MCGOVERN of Massachusetts as original cosponsors. This bill would require the Export-Import Bank of the United States, when selecting among firms to provide financial assistance, to give preference to any firm which has shown a commitment to reinvestment and job creation in the United States.

Mr. Speaker, this bill gets at, I believe the heart of the issue of the relationship between the U.S. Government, the taxpayers of this country and corporate America.

Mr. Speaker, let me tell you a little bit about some of the companies which have received financial assistance from the Export-Import Bank in recent years—and you tell me whether these are really the best companies that the middle income people of this country should be subsidizing. According to information from Ex-IM, among the top 25 companies which receive assistance from Ex-Im are Boeing, General Electric, and AT&T. Let's take a brief look at these companies and see whether these really are the types of companies that the American taxpayers should be rewarding.

In terms of employment, in 1990 Boeing had 155,900 employees. In 1996, it had 103,600 employees—a decline of 52,300 jobs during that period. In other words, it laid off ⅓ of its workforce, despite being the top recipient of Ex-Im aid.

Mr. Speaker, General Electric is the number two recipient of Ex-Im aid. In 1975 GE had 667,000 American workers. Twenty years later, it had 398,000, a decline of 269,000 jobs. General Electric CEO Jack Welch, is well known for his ruthlessness in moving GE jobs to anyplace in the world where he can get cheap labor—Mexico, China, and other poor Third World countries. Is this really the type of company we want to be rewarding with taxpayer subsidies? Downsizing American workers has been at the core of the Jack Welch philosophy at GE, and Ex-Im is actually providing millions of dollars in support of this company.

As for AT&T, in 1995 AT&T laid off 40,000 workers. Interestingly enough, reports show that in that same year, AT&T provided its CEO, Robert Allen, with $15 million in options plus a $11 million grant.

My point, Mr. Speaker, is that the entire approach of Ex-Im in terms of job creation is too narrow. They approach the idea of "jobs through exports" on a project-by-project basis, and ignore the totality of what the company is doing.

My bill is quite simple. This bill would simply require the Export-Import Bank to look at the totality of the situation. And if there is a company that is showing a commitment to job creation and reinvestment in the United States, then that company should receive preference for assistance.

I urge my colleagues to support this legislation.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, June 26, 1997, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 27

10:00 a.m.

Judiciary

Technology, Terrorism, and Government Information Subcommittee

To hold hearings to examine the threat of domestic terrorism, focusing on allegations from the recent trial of Timothy McVeigh in the Oklahoma City bombing.

SD–226

JULY 8

9:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to review the cost effectiveness, necessity and efficacy of the operation of the Rural Utilities Service, and to examine the effects of potential electricity deregulation on rural America and the Rural Electric Cooperative System.

SR–332

10:00 a.m.

Governmental Affairs

To hold hearings to examine certain matters with regard to the committee's special investigation on campaign financing.

SR–325

JULY 9

10:00 a.m.

Governmental Affairs

To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.

SR–325

Joint Economic

To hold hearings on tradable emissions. 2325 Rayburn Building

JULY 10

10:00 a.m.

Appropriations

District of Columbia Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the government of the District of Columbia.

SD–192

Governmental Affairs

To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.

SR–325

2:00 p.m.

Energy and Natural Resources

National Parks, Historic Preservation, and Recreation Subcommittee

To hold oversight hearings to review the preliminary findings of the General Accounting Office concerning a study on the health, condition, and viability of the range and wildlife populations in Yellowstone National Park.

SD–366

JULY 15

10:00 a.m.

Governmental Affairs

To resume hearings to examine certain matters with regard to the committee's special investigation on campaign financing.

SR–325

JULY 16

9:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine the importance of alternative fuels in addressing future national security concerns, focusing on agriculture's vulnerability to energy price volatility, the contribution of home-grown renewable alternative fuels, and the role of new technologies in making agriculture more energy efficient while increasing yields.

SR–332

10:00 a.m.

Governmental Affairs

To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.

SR–325

JULY 17

10:00 a.m.
Governmental Affairs
To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SR-325

JULY 22

10:00 a.m.
Governmental Affairs
To resume hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SR-325

JULY 23

9:00 a.m.
Finance
International Trade Subcommittee
To hold hearings with the Caucus on International Narcotics Control on the threat to U.S. trade and finance from drug trafficking and international organized crime.
SD-215

10:00 a.m.
Governmental Affairs
To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SR-325

JULY 24

10:00 a.m.
Governmental Affairs
To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SR-325

JULY 29

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the effect of the Federal Agriculture Improvement and Reform Act (P.L. 104-127) on price and income volatility, and the proper role of the Federal government to manage volatility and protect the integrity of agricultural markets.
SR-332

10:00 a.m.
Governmental Affairs
To resume hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SR-325

JULY 30

9:00 a.m.
Finance
International Trade Subcommittee
To resume hearings with the Caucus on International Narcotics Control on the threat to U.S. trade and finance from drug trafficking and international organized crime.
SD-215

10:00 a.m.
Governmental Affairs
To resume hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SR-325

JULY 31

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine how trade opportunities and international agricultural research can stimulate economic growth in Africa, thereby enhancing African food security and increasing U.S. exports.
SR-332

10:00 a.m.
Governmental Affairs
To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SR-325

CANCELLATIONS

JUNE 26

9:30 a.m.
Labor and Human Resources
Children and Families Subcommittee
To hold oversight hearings on the implementation of the Family and Medical Leave Act.
SD-430

POSTPONEMENTS

JUNE 26

2:00 p.m.
Judiciary
Immigration Subcommittee
To hold hearings on proposals to extend the Visa Waiver Pilot Program, including S. 290, to establish a visa waiver pilot program for nationals of Korea who are traveling in tour groups to the United States.
SD-226