OMNIBUS BUDGET RECONCILIATION ACT OF 1990

Volumes 1 - 5
H.R. 5835

PUBLIC LAW 101-508
101ST CONGRESS

REPORTS, BILLS, DEBATES, AND ACT

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Social Security Administration

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Volume 3

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Social Security Administration
Office of the Deputy Commissioner for Policy and External Affairs
Office of Legislation and Congressional Affairs

PREFACE

This 5 volume compilation contains historical documents pertaining to P.L. 101-508, the Omnibus Budget Reconciliation Act of 1990. The book contains congressional debates, a chronological compilation of documents pertinent to the legislative history of the public law and listings of relevant reference materials.

Pertinent documents include:

- o Committee reports
- o Differing versions of key bills
- o The Public Law
- o Legislative history

The books are prepared by the Office of Legislation and Congressional Affairs and are designed to serve as helpful resource tools for those charged with interpreting laws administered by the Social Security Administration.

TABLE OF CONTENTS

OMNIBUS BUDGET RECONCILIATION ACT OF 1990

Volume 1

I. Reported to and Passed House (Actions on H.R. 5835)

A. House Committee on the Budget Report

House Report No. 101-881 (to accompany H.R. 5835)
October 16, 1990 (excerpts)

B. Committee on the Budget Reported Bill

H.R. 5835 (reported without amendments) committed to the Whole House—October 16, 1990 (excerpts)

C. H.R. 5450, Computer Matching and Privacy Protection Amendments of 1990 (computer matching provisions were included in the Committee on the Budget reported H.R. 5835)

1. Bill as Reported on September 27, 1990

2. House Committee on Government Operations Report No. 101-768 on H.R. 5450—September 27, 1990

D. House Debate on H.R. 5835—Congressional Record—October 16, 1990 (excerpts)

E. House-Passed Bill
H.R. 5835 (as amended) as Referred to the Senate—October 17, 1990 (excerpts)

Volume 2

II. Reported to and Passed Senate (Actions on S. 3209 and H.R. 5835)

A. Senate Committee on the Budget Reported Bill

S. 3209 (reported without amendments)—No written report—October 16, 1990 (excerpts)

B. Senate Debate—Congressional Record—October 17-18, 1990 (excerpts)

Senate struck the full text of H.R. 5835 and inserted in lieu thereof the language of S. 3209, as amended. Senate then passed H.R. 5835, as amended

TABLE OF CONTENTS

Volume 2 (CONTINUED)

C. Senate Amendments to S. 3209—Congressional Record—October 17-18, 1990 (excerpts)

Volume 3

III. House and Senate Conference (reconciling the differences between the two Houses)

A. H.R. 5828, Technical and Miscellaneous Social Security Act Amendments of 1990 (portions of H.R. 5828 were incorporated into H.R. 5835 during conference)

1. Bill As Reported on October 18, 1990

2. House Committee on Ways and Means Report No. 101-899 on H.R. 5828—October 18, 1990

B. Conference Report Filed

House Report No. 101-964—October 26, 1990 (excerpts)

C. House Agreed to Conference Report—Congressional Record—October 26, 1990

D. Senate Agreed to Conference Report—Congressional Record—October 27, 1990

Volume 4

IV. Public Law

A. Public Law 101-508—101st Congress—November 5, 1990 (excerpts)

B. President Bush's Signing Statement—November 5, 1990

C. Legislative Report No. 2, "Omnibus Budget Reconciliation Act of 1990" (Social Security Administration/Office of Legislation and Congressional Affairs)—December 19, 1990

D. Social Security Bulletin—May 1991, "Social Security Related Legislation in 1990—Omnibus Budget Reconciliation Act of 1990, H.R. 5835"

APPENDIX

A. Action on Budget Resolutions—H.Con.Res. 310, Concurrent Resolution on the Budget, Fiscal Years 1991-1995, and S.Con.Res. 110, Senate Concurrent Resolution on the Budget for Fiscal Years 1991, 1992, and 1993 (excerpts)

Volume 5

B. President Bush's Fiscal Year 1991 Budget (A Summary and Analysis Prepared by the Staff of the House Budget Committee)—February 2, 1990 (excerpts)

C. Background Materials on Federal Budget and Tax Policy for Fiscal Year 1991 and Beyond (Prepared by Staff for the Use of the Committee on Ways and Means)
House Report 101-21—February 6, 1990 (excerpts)

D. Data and Materials for the Fiscal Year 1991 Finance Committee Report Under the Congressional Budget Act (Prepared by the Staff for the Use of the Committee on Finance)
Senate Report No. 101-82—February 1990 (excerpts)

E. Legislative History of Ways and Means Democratic Alternative—House Committee on Ways and Means—Committee Print No. 101-37—October 15, 1990 (excerpts)

F. Republican Alternative Substitute—Representative Carl Pursell (R., MI) Amendments to H.R. 5835—Congressional Record—October 15, 1990

G. H.Res. 509 (Providing for consideration of H.R. 5835)

1. House Committee on Rules Report
House Report No. 101-882 (to accompany H.Res. 509) —October 16, 1990 (excerpts)

2. House Debate on H.Res. 509—Congressional Record —October 16, 1990

H. Office of Management and Budget Statement of Administration Policy on the House and Senate Versions of H.R. 5835—the Omnibus Reconciliation Act of 1990—October 19, 1990

I. "Dear Conferee" letter from Health and Human Services Secretary Sullivan—October 19, 1990

J. Appointment of Conferees

1. Senate appointed conferees—Congressional Record—October 18 and 19, 1990

2. House appointed conferees—Congressional Record—October 18, 19, and 20, 1990

K. House Resolutions Concerning House/Senate Conference Action

1. H.Res. 527, Waiving the Requirement for a Two-Thirds Vote to Consider a Report from the Committee on Rules on the Same Day It Is Presented to the House—October 24, 1990

a. House Committee on Rules Report No. 101-940, to accompany H.Res. 527—October 24, 1990

b. House Debate on H.Res. 527—Congressional Record—October 25, 1990

TABLE OF CONTENTS

Volume 5 (CONTINUED)

2. H.Res. 537, special rule providing for consideration of the Conference Report on H.R. 5835—October 26, 1990

    a. House Committee on Rules Report No. 101-962, to accompany H.Res. 537—October 26, 1990

    b. House Debate on H.Res. 537—Congressional Record—October 26, 1990

L. Legislative Bulletins

1. Legislative Bulletin No. 101-14 (SSA/OLCA), Social Security Subcommittee Marks Up Social Security Proposals—May 2, 1990

2. Legislative Bulletin No. 101-16 (SSA/OLCA), Action on Debt Ceiling and Budget Process—July 26, 1990

3. Legislative Bulletin No. 101-19 (SSA/OLCA), Budget Summit Agreement—October 3, 1990

4. Legislative Bulletin No. 101-20 (SSA/OLCA), Continuing Resolution/Budget Resolution—October 12, 1990

5. Legislative Bulletin No. 101-21 (SSA/OLCA), Committee on Finance Agrees to Deficit Reduction Package—October 16, 1990

6. Legislative Bulletin No. 101-22 (SSA/OLCA), Senate Passes Budget Reconciliation Bill/House Passes Budget Reconciliation Bill—October 19, 1990

7. Legislative Bulletin No. 101-23 (SSA/OLCA), Congress Agrees to Budget Reconciliation Bill—October 31, 1990

LISTING OF REFERENCE MATERIALS

101ST CONGRESS
2D SESSION

H. R. 5828

[Report No. 101–899, Part I]

To make miscellaneous and technical amendments to the Social Security Act.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 15, 1990

Mr. ROSTENKOWSKI introduced the following bill; which was referred jointly to the Committees on Ways and Means and Energy and Commerce

OCTOBER 18, 1990

Reported from the Committee on Ways and Means with an amendment and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on October 15, 1990]

A BILL

To make miscellaneous and technical amendments to the Social Security Act.

1 *Be it enacted by the Senate and House of Representa-*

2 *tives of the United States of America in Congress assembled,*

1 # *TITLE I—HUMAN RESOURCE*
2 # *AMENDMENTS*

3 ***SEC. 1001. SHORT TITLE; TABLE OF CONTENTS; AMENDMENT OF***
4 ***SOCIAL SECURITY ACT.***

5 *(a)* SHORT TITLE.—*This title may be cited as the*
6 *"Human Resource Amendments of 1990".*

7 *(b)* TABLE OF CONTENTS.—

Sec. 1001. Short title; table of contents; amendment of Social Security Act.

Subtitle A—Child Support Enforcement

Sec. 1011. Extension of IRS intercept for non-AFDC families.
Sec. 1012. Extension of Commission on Interstate Child Support.
Sec. 1013. Texas child support enforcement waiver.

Subtitle B—Unemployment Compensation

Sec. 1021. "Reed Act" provisions made permanent.
Sec. 1022. Prohibition against collateral estoppel.

Subtitle C—Supplemental Security Income

Sec. 1031. Exclusion from income and resources of victims' compensation payments.
Sec. 1032. Attainment of age 65 not to serve as basis for termination of eligibility under section 1619(b).
Sec. 1033. Exclusion from income of impairment-related work expenses.
Sec. 1034. Treatment of royalties and honoraria as earned income.
Sec. 1035. Certain State relocation assistance excluded from SSI income and resources.
Sec. 1036. Evaluation of child's disability by pediatrician or other qualified specialist.
Sec. 1037. Reimbursement for vocational rehabilitation services furnished during certain months of nonpayment of supplemental security income benefits.
Sec. 1038. Extension of period of presumptive eligibility for benefits.
Sec. 1039. Continuing disability or blindness reviews not required more than once annually.

Subtitle D—Aid to Families With Dependent Children

Sec. 1041. Optional monthly reporting and retrospective budgeting.
Sec. 1042. Children receiving foster care maintenance payments or adoption assistance payments not treated as member of family unit for purposes of determining eligibility for, or amount of, AFDC benefit.
Sec. 1043. Elimination of term "legal guardian".
Sec. 1044. Reporting of child abuse and neglect.

Sec. 1045. Disclosure of information about AFDC applicants and recipients authorized for purposes directly connected to State foster care and adoption assistance programs.
Sec. 1046. Repatriation.
Sec. 1047. Technical amendments to National Commission on Children.
Sec. 1048. Extension of prohibition against implementation of proposed regulations on emergency assistance and AFDC special needs.
Sec. 1049. Amendments to Minnesota Family Investment Plan demonstration.

Subtitle E—Child Welfare and Foster Care

Sec. 1051. Accounting for administrative costs.
Sec. 1052. Section 427 triennial reviews.
Sec. 1053. Extension of services under the independent living program.

1 *(c) AMENDMENT OF SOCIAL SECURITY ACT.—Except*
2 *as otherwise expressly provided, wherever in this title an*
3 *amendment or repeal is expressed in terms of an amendment*
4 *to, or repeal of, a section or other provision, the reference*
5 *shall be considered to be made to a section or other provision*
6 *of the Social Security Act.*

12 ## *Subtitle C—Supplemental Security*
13 ## *Income*

14 ***SEC. 1031. EXCLUSION FROM INCOME AND RESOURCES OF VIC-***
15 ***TIMS' COMPENSATION PAYMENTS.***

16 *(a) EXCLUSION FROM INCOME.—Section 1612(b) (42*
17 *U.S.C. 1382a(b)) is amended—*
18 *(1) by striking "and" at the end of paragraph*
19 *(15);*
20 *(2) by striking the period at the end of paragraph*
21 *(16) and inserting "; and"; and*
22 *(3) by adding at the end the following:*
23 *"(17) any amount received from a fund estab-*
24 *lished by a State to aid victims of crime.".*

1 *(b) EXCLUSION FROM RESOURCES.—Section 1613(a)*
2 *(42 U.S.C. 1382b(a)) is amended—*
3 *(1) by striking "and" at the end of paragraph (7);*
4 *(2) by striking the period at the end of paragraph*
5 *(8) and inserting "; and"; and*
6 *(3) by adding at the end the following:*
7 *"(9)(A) any amount received from a fund estab-*
8 *lished by a State to aid victims of crime, to the extent*
9 *that the recipient demonstrates that such amount was*
10 *paid as compensation for expenses incurred or losses*
11 *suffered as a result of a crime; and*
12 *"(B) any amount received from a fund described*
13 *in subparagraph (A) that is not excluded by reason of*
14 *subparagraph (A) and is unexpended, for the 9-month*
15 *period beginning after the month in which received.".*
16 *(c) VICTIMS COMPENSATION AWARD NOT REQUIRED*
17 *TO BE ACCEPTED AS CONDITION OF RECEIVING BENE-*
18 *FITS.—Section 1631(a) (42 U.S.C. 1383(a)) is amended by*
19 *adding at the end the following:*
20 *"(9) Benefits under this title shall not be denied to any*
21 *individual solely by reason of the refusal of the individual to*
22 *accept an amount offered as compensation for a crime of*
23 *which the individual was a victim.".*

1 (d) EFFECTIVE DATE.—The amendments made by this
2 section shall take effect for months beginning 6 or more
3 months after the date of the enactment of this Act.

4 **SEC. 1032. ATTAINMENT OF AGE 65 NOT TO SERVE AS BASIS FOR**
5 **TERMINATION OF ELIGIBILITY UNDER SECTION**
6 **1619(b).**

7 (a) IN GENERAL.—Section 1619(b) (42 U.S.C.
8 1392h(b)) is amended by striking "under age 65".
9 (b) EFFECTIVE DATE.—The amendments made by
10 subsection (a) shall apply with respect to benefits payable for
11 months beginning 6 or more months after the date of the en-
12 actment of this Act.

13 **SEC. 1033. EXCLUSION FROM INCOME OF IMPAIRMENT-RELATED**
14 **WORK EXPENSES.**

15 (a) IN GENERAL.—Section 1612(b)(4)(B)(ii) (42
16 U.S.C. 1382a(b)(4)(B)(ii)) is amended by striking "(for
17 purposes of determining the amount of his or her benefits
18 under this title and of determining his or her eligibility for
19 such benefits for consecutive months of eligibility after the
20 initial month of such eligibility)".
21 (b) EFFECTIVE DATE.—The amendment made by sub-
22 section (a) shall apply to benefits payable for calendar
23 months beginning after the date of the enactment of this Act.

1 *SEC. 1034. TREATMENT OF ROYALTIES AND HONORARIA AS*
2 *EARNED INCOME.*

3 *(a) IN GENERAL.—Section 1612(a) (42 U.S.C.*
4 *1382a(a)) is amended—*
5 *(1) in paragraph (1)—*
6 *(A) by striking "and" at the end of subpara-*
7 *graph (C); and*
8 *(B) by adding at the end the following:*
9 *"(E) any royalty earned from self-employment in*
10 *a trade or business, or by an individual in connection*
11 *with any publication of the work of the individual, and*
12 *that portion of any honorarium which is received for*
13 *services rendered; and"; and*
14 *(2) in paragraph (2)(F), by inserting "not de-*
15 *scribed in paragraph (1)(E)" before the period.*
16 *(b) EFFECTIVE DATE.—The amendments made by this*
17 *section shall apply with respect to benefits for calendar*
18 *months beginning 17 or more months after the date of the*
19 *enactment of this Act.*

20 *SEC. 1035. CERTAIN STATE RELOCATION ASSISTANCE EX-*
21 *CLUDED FROM SSI INCOME AND RESOURCES.*

22 *(a) EXCLUSION FROM INCOME.—Section 1612(b) (42*
23 *U.S.C. 1382a(b)), as amended by section 1031(a) of this*
24 *Act, is amended—*
25 *(1) by striking "and" at the end of paragraph*
26 *(16);*

1 *(2) by striking the period at the end of paragraph*
2 *(17) and inserting a semicolon; and*
3 *(3) by inserting after paragraph (17) the follow-*
4 *ing:*
5 *"(18) relocation assistance provided by a State or*
6 *local government to such individual (or such spouse),*
7 *comparable to assistance provided under title II of the*
8 *Uniform Relocation Assistance and Real Property Ac-*
9 *quisitions Policies Act of 1970 which is subject to the*
10 *treatment required by section 216 of such Act.".*
11 *(b) EXCLUSION FROM RESOURCES.—Section 1613(a)*
12 *(42 U.S.C. 1382b(a)), as amended by section 1031(b) of this*
13 *Act, is amended—*
14 *(1) by striking "and" at the end of paragraph (7);*
15 *(2) by striking the period at the end of paragraph*
16 *(8) and inserting a semicolon; and*
17 *(3) by inserting after paragraph (8) the following:*
18 *"(9) relocation assistance provided by a State or*
19 *local government to such individual (or such spouse),*
20 *comparable to assistance provided under title II of the*
21 *Uniform Relocation Assistance and Real Property Ac-*
22 *quisitions Policies Act of 1970 which is subject to the*
23 *treatment required by section 216 of such Act.".*
24 *(c) EFFECTIVE DATE.—The amendments made by this*
25 *section shall apply to benefits payable for months beginning 6*

1 *or more calendar months after the date of the enactment of*
2 *this Act.*

3 ***SEC. 1036. EVALUATION OF CHILD'S DISABILITY BY PEDIATRI-***
4 ***CIAN OR OTHER QUALIFIED SPECIALIST.***

5 *(a) IN GENERAL.—Section 1614(a)(3) (42 U.S.C.*
6 *1382c(a)(3)) is amended by adding at the end the following:*
7 *"(H) In making any determination under this title with*
8 *respect to the disability of a child who has not attained the*
9 *age of 18 years, the Secretary shall make reasonable efforts*
10 *to ensure that a qualified pediatrician or other individual*
11 *who specializes in a field of medicine appropriate to the dis-*
12 *ability of the child (as determined by the Secretary) evalu-*
13 *ates the child.".*
14 *(b) EFFECTIVE DATE.—The amendment made by sub-*
15 *section (a) shall apply to determinations made 6 or more*
16 *months after the date of the enactment of this Act.*

17 ***SEC. 1037. REIMBURSEMENT FOR VOCATIONAL REHABILITA-***
18 ***TION SERVICES FURNISHED DURING CERTAIN***
19 ***MONTHS OF NONPAYMENT OF SUPPLEMENTAL***
20 ***SECURITY INCOME BENEFITS.***

21 *(a) IN GENERAL.—Section 1615 (42 U.S.C. 1382d)*
22 *is amended by adding at the end the following:*
23 *"(e) The Secretary may reimburse the State agency de-*
24 *scribed in subsection (d) for the costs described therein in-*
25 *curred in the provision of rehabilitation services—*

1 *"(1) for any month for which an individual re-*
2 *ceived—*
3 *"(A) benefits under section 1611;*
4 *"(B) assistance pursuant to section 1619(b);*
5 *or*
6 *"(C) a federally administered State supple-*
7 *mentary payment under section 1616; and*
8 *"(2) for any month before the 13th consecutive*
9 *month for which an individual, for a reason other than*
10 *cessation of disability or blindness, was ineligible for—*
11 *"(A) benefits under section 1611;*
12 *"(B) federally administered State supple-*
13 *mentary payments under any agreement entered*
14 *into under section 1616(a);*
15 *"(C) benefits under section 1619; and*
16 *"(D) federally administered State supple-*
17 *mentary payments under any agreement entered*
18 *into under section 212(b) of Public Law 93–66.".*
19 *(b) EFFECTIVE DATE.—The amendment made by sub-*
20 *section (a) shall take effect on the date of the enactment of*
21 *this Act and shall apply to claims for reimbursement pending*
22 *on or after such date.*

1 *SEC. 1038. EXTENSION OF PERIOD OF PRESUMPTIVE ELIGIBIL-*
2 *ITY FOR BENEFITS.*

3 *(a) IN GENERAL.—Section 1631(a)(4)(B) (42 U.S.C.*
4 *1383(a)(4)(B)) is amended by striking "3" and inserting*
5 *"6".*

6 *(b) EFFECTIVE DATE.—The amendment made by sub-*
7 *section (a) shall take effect on the date of the enactment of*
8 *this Act.*

9 *SEC. 1039. CONTINUING DISABILITY OR BLINDNESS REVIEWS*
10 *NOT REQUIRED MORE THAN ONCE ANNUALLY.*

11 *(a) IN GENERAL—Section 1619 (42 U.S.C. 1382h) is*
12 *amended—*

13 *(1) by redesignating subsection (c) as subsection*
14 *(d); and*

15 *(2) by inserting after subsection (b) the following:*

16 *"(c) Subsection (a)(2) and section 1631(j)(2)(A) shall*
17 *not be construed, singly or jointly, to require more than 1*
18 *determination during any 12-month period with respect to the*
19 *continuing disability or blindness of an individual.".*

20 *(b) CONFORMING AMENDMENT.—Section*
21 *1631(j)(2)(A) (42 U.S.C. 1383(j)(2)(A)) is amended by in-*
22 *serting "(other than subsection (c) thereof)" after "1619" the*
23 *1st place such term appears.*

24 *(c) EFFECTIVE DATE.—The amendments made by*
25 *subsections (a) and (b) shall take effect on the date of the*
26 *enactment of this Act.*

14 ***TITLE II—AMENDMENTS RELATING***
15 ***TO OLD-AGE, SURVIVORS, AND***
16 ***DISABILITY INSURANCE***

17 ***SEC. 2000. TABLE OF CONTENTS.***

Sec. 2000. Table of contents.
Sec. 2001. Continuation of disability benefits during appeal.
Sec. 2002. Repeal of special disability standard for widows and widowers.
Sec. 2003. Dependency requirements applicable to a child adopted by a surviving spouse.
Sec. 2004. Entitlement to benefits of deemed spouse and legal spouse.
Sec. 2005. Representative payee reforms.
Sec. 2006. Fees for representation of claimants in administrative proceedings.
Sec. 2007. Notice requirements.
Sec. 2008. Applicability of administrative res judicata; related notice requirements.
Sec. 2009. Telephone access to the Social Security Administration.
Sec. 2010. Vocational rehabilitation demonstration projects.
Sec. 2011. Exemption for certain aliens, receiving amnesty under the Immigration and Nationality Act, from prosecution for misreporting of earnings or misuse of social security account numbers or social security cards.

Sec. 2012. Reduction of amount of wages needed to earn a year of coverage applicable in determining special minimum primary insurance amount.
Sec. 2013. Elimination of eligibility for retroactive benefits for certain individuals eligible for reduced benefits.
Sec. 2014. Charging of earnings of corporate directors.
Sec. 2015. Collection of employee social security and railroad retirement taxes on taxable group-term life insurance provided to retirees.
Sec. 2016. Consolidation of old methods of computing primary insurance amounts.
Sec. 2017. Suspension of dependent's benefits when the worker is in an extended period of eligibility.
Sec. 2018. Tier 1 railroad retirement tax rates explicitly determined by reference to social security taxes.
Sec. 2019. Transfer to railroad retirement account.
Sec. 2020. Waiver of 2-year waiting period for independent entitlement to divorced spouse's benefits.
Sec. 2021. Modification of the preeffectuation review requirement applicable to disability insurance cases.
Sec. 2022. Adjustments in exempt amount for purposes of the retirement test.
Sec. 2023. Earnings in years after attaining age 69 disregarded for purposes of benefit recomputation except to compensate for years of zero earnings.
Sec. 2024. Miscellaneous technical corrections.

1 ***SEC. 2001. CONTINUATION OF DISABILITY BENEFITS DURING***
2 ***APPEAL.***

3 *Subsection (g) of section 223 of the Social Security Act*
4 *(42 U.S.C. 423(g)) is amended—*
5 *(1) in paragraph (1)(i), by inserting "or" after*
6 *"hearing,", and by striking "pending, or (iii) June*
7 *1991." and inserting "pending."; and*
8 *(2) by striking paragraph (3).*

9 ***SEC. 2002. REPEAL OF SPECIAL DISABILITY STANDARD FOR***
10 ***WIDOWS AND WIDOWERS.***

11 *(a) IN GENERAL.—Section 223(d)(2) of the Social Se-*
12 *curity Act (42 U.S.C. 423(d)(2)) is amended—*
13 *(1) in subparagraph (A), by striking "(except a*
14 *widow, surviving divorced wife, widower, or surviving*

1 *divorced husband for purposes of section 202 (e) or*
2 *(f))";*
3 *(2) by striking subparagraph (B); and*
4 *(3) by redesignating subparagraph (C) as sub-*
5 *paragraph (B).*
6 *(b) CONFORMING AMENDMENTS.—*
7 *(1) The third sentence of section 216(i)(1) of such*
8 *Act (42 U.S.C. 416(i)(1)) is amended by striking*
9 *"(2)(C)" and inserting "(2)(B)".*
10 *(2) Section 223(f)(1)(B) of such Act (42 U.S.C.*
11 *423(f)(1)(B)) is amended to read as follows:*
12 *"(B) the individual is now able to engage in*
13 *substantial gainful activity; or".*
14 *(3) Section 223(f)(2)(A)(ii) of such Act (42*
15 *U.S.C. 423(f)(2)(A)(ii)) is amended to read as follows:*
16 *"(ii) the individual is now able to*
17 *engage in substantial gainful activity, or".*
18 *(4) Section 223(f)(3) of such Act (42 U.S.C.*
19 *423(f)(3)) is amended by striking "therefore—" and*
20 *all that follows and inserting "therefore the individual*
21 *is able to engage in substantial gainful activity; or".*
22 *(5) Section 223(f) of such Act is further amended,*
23 *in the matter following paragraph (4), by striking "(or*
24 *gainful activity in the case of a widow, surviving di-*

1 *vorced wife, widower, or surviving divorced husband)'*
2 *each place it appears.*
3 *(c) TRANSITIONAL RULES RELATING TO MEDICAID*
4 *AND MEDICARE ELIGIBILITY.—*
5 *(1) DETERMINATION OF MEDICAID ELIGIBIL-*
6 *ITY.—Section 1634(d) of such Act (42 U.S.C.*
7 *1383c(d)) is amended—*
8 *(A) by redesignating paragraphs (1) and (2)*
9 *as subparagraphs (A) and (B), respectively;*
10 *(B) by striking "(d) If any person—" and*
11 *inserting "(d)(1) This subsection applies with re-*
12 *spect to any person who—";*
13 *(C) in subparagraph (A) (as redesignated),*
14 *by striking "as required" and all that follows*
15 *through "but not entitled" and inserting "being*
16 *then not entitled";*
17 *(D) in subparagraph (B) (as redesignated),*
18 *by striking the comma at the end and inserting a*
19 *period; and*
20 *(E) by striking "such person shall" and all*
21 *that follows and inserting the following new para-*
22 *graph:*
23 *"(2) For purposes of title XIX, each person with respect*
24 *to whom this subsection applies—*

1 *"(A) shall be deemed to be a recipient of supple-*
2 *mental security income benefits under this title if such*
3 *person received such a benefit for the month before the*
4 *month in which such person began to receive a benefit*
5 *described in paragraph (1)(A), and*
6 *"(B) shall be deemed to be a recipient of State*
7 *supplementary payments of the type referred to in sec-*
8 *tion 1616(a) of this Act (or payments of the type de-*
9 *scribed in section 212(a) of Public Law 93-66) which*
10 *are paid by the Secretary under an agreement referred*
11 *to in such section 1616(a) (or in section 212(b) of*
12 *Public Law 93-66) if such person received such a pay-*
13 *ment for the month before the month in which such*
14 *person began to receive a benefit described in para-*
15 *graph (1)(A),*
16 *for so long as such person (i) would be eligible for such sup-*
17 *plemental security income benefits, or such State supplemen-*
18 *tary payments, in the absence of benefits described in para-*
19 *graph (1)(A), and (ii) is not entitled to hospital insurance*
20 *benefits under part A of title XVIII.".*
21 *(2) INCLUSION OF MONTHS OF SSI ELIGIBILITY*
22 *WITHIN 5-MONTH DISABILITY WAITING PERIOD AND*
23 *24-MONTH MEDICARE WAITING PERIOD.—*

1 *(A) WIDOW'S BENEFITS BASED ON DIS-*
2 *ABILITY.—Section 202(e)(5) of the Social Secu-*
3 *rity Act (42 U.S.C. 402(e)(5)) is amended—*
4 *(i) in subparagraph (B), by striking*
5 *"(i)" and "(ii)" and inserting "(I)" and*
6 *"(II)", respectively;*
7 *(ii) by redesignating subparagraphs (A)*
8 *and (B) as clauses (i) and (ii), respectively;*
9 *(iii) by inserting "(A)" after "(5)"; and*
10 *(iv) by adding at the end the following*
11 *new subparagraph:*
12 *"(B) For purposes of paragraph (1)(F)(i), each month*
13 *in the period commencing with the first month for which such*
14 *widow or surviving divorced wife is first eligible for supple-*
15 *mental security income benefits under title XVI, or State*
16 *supplementary payments of the type referred to in section*
17 *1616(a) (or payments of the type described in section 212(a)*
18 *of Public Law 93–66) which are paid by the Secretary under*
19 *an agreement referred to in section 1616(a) (or in section*
20 *212(b) of Public Law 93–66), shall be included as one of the*
21 *months of such waiting period for which the requirements of*
22 *subparagraph (A) have been met.".*
23 *(B) WIDOWER'S BENEFITS BASED ON DIS-*
24 *ABILITY.—Section 202(f)(6) of such Act (42*
25 *U.S.C. 402(f)(6)) is amended—*

1 *(i) in subparagraph (B), by striking*
2 *"(i)" and "(ii)" and inserting "(I)" and*
3 *"(II)", respectively;*
4 *(ii) by redesignating subparagraphs (A)*
5 *and (B) as clauses (i) and (ii), respectively;*
6 *(iii) by inserting "(A)" after "(6)"; and*
7 *(iv) by adding at the end the following*
8 *new subparagraph:*
9 *"(B) For purposes of paragraph (1)(F)(i), each month*
10 *in the period commencing with the first month for which such*
11 *widower or surviving divorced husband is first eligible for*
12 *supplemental security income benefits under title XVI, or*
13 *State supplementary payments of the type referred to in sec-*
14 *tion 1616(a) (or payments of the type described in section*
15 *212(a) of Public Law 93–66) which are paid by the Secre-*
16 *tary under an agreement referred to in section 1616(a) (or in*
17 *section 212(b) of Public Law 93–66), shall be included as*
18 *one of the months of such waiting period for which the re-*
19 *quirements of subparagraph (A) have been met.".*
20 *(C) MEDICARE BENEFITS.—Section*
21 *226(e)(1) of such Act (42 U.S.C. 426(e)(1)) is*
22 *amended—*
23 *(i) by redesignating subparagraphs (A)*
24 *and (B) as clauses (i) and (ii), respectively;*

1 *(ii) by inserting "(A)" after "(e)(1)";*
2 *and*
3 *(iii) by adding at the end the following*
4 *new subparagraph:*
5 *"(B) For purposes of subsection (b)(2)(A)(iii), each*
6 *month in the period commencing with the first month for*
7 *which an individual is first eligible for supplemental security*
8 *income benefits under title XVI, or State supplementary*
9 *payments of the type referred to in section 1616(a) of this Act*
10 *(or payments of the type described in section 212(a) of Public*
11 *Law 93–66) which are paid by the Secretary under an*
12 *agreement referred to in section 1616(a) (or in section 212(b)*
13 *of Public Law 93–66), shall be included as one of the 24*
14 *months for which such individual must have been entitled to*
15 *widow's or widower's insurance benefits on the basis of dis-*
16 *ability in order to become entitled to hospital insurance bene-*
17 *fits on that basis.".*
18 *(d) DEEMED DISABILITY FOR PURPOSES OF ENTI-*
19 *TLEMENT TO WIDOW'S AND WIDOWER'S INSURANCE*
20 *BENEFITS FOR WIDOWS AND WIDOWERS ON SSI*
21 *ROLLS.—*
22 *(1) WIDOW'S INSURANCE BENEFITS.—Section*
23 *202(e) of such Act (42 U.S.C. 402(e)) is amended by*
24 *adding at the end the following new paragraph:*

1 *"(9) An individual shall be deemed to be under a dis-*
2 *ability for purposes of paragraph (1)(B)(ii) if such individ-*
3 *ual is eligible for supplemental security income benefits*
4 *under title XVI, or State supplementary payments of the*
5 *type referred to in section 1616(a) (or payments of the type*
6 *described in section 212(a) of Public Law 93–66) which are*
7 *paid by the Secretary under an agreement referred to in sec-*
8 *tion 1616(a) (or in section 212(b) of Public Law 93–66), for*
9 *the month for which all requirements of paragraph (1) for*
10 *entitlement to benefits under this subsection (other than being*
11 *under a disability) are met.".*
12 *(2) WIDOWER'S INSURANCE BENEFITS.—Sec-*
13 *tion 202(f) of such Act (42 U.S.C. 402(f)) is amended*
14 *by adding at the end the following new paragraph:*
15 *"(9) An individual shall be deemed to be under a dis-*
16 *ability for purposes of paragraph (1)(B)(ii) if such individ-*
17 *ual is eligible for supplemental security income benefits*
18 *under title XVI, or State supplementary payments of the*
19 *type referred to in section 1616(a) (or payments of the type*
20 *described in section 212(a) of Public Law 93–66) which are*
21 *paid by the Secretary under an agreement referred to in such*
22 *section 1616(a) (or in section 212(b) of Public Law 93–66),*
23 *for the month for which all requirements of paragraph (1) for*
24 *entitlement to benefits under this subsection (other than being*
25 *under a disability) are met.".*

1 *(e) EFFECTIVE DATE.—*

2 *(1) IN GENERAL.—The amendments made by*
3 *this section (other than paragraphs (1) and (2)(C) of*
4 *subsection (c)) shall apply with respect to monthly in-*
5 *surance benefits for months after December 1990 for*
6 *which applications are filed on or after January 1,*
7 *1991, or are pending on such date. The amendments*
8 *made by subsection (c)(1) shall apply with respect to*
9 *medical assistance provided after December 1990. The*
10 *amendments made by subsection (c)(2)(C) shall apply*
11 *with respect to items and services furnished after De-*
12 *cember 1990.*

13 *(2) APPLICATION REQUIREMENTS FOR CERTAIN*
14 *INDIVIDUALS ON BENEFIT ROLLS.—In the case of*
15 *any individual who—*

16 *(A) is entitled to disability insurance bene-*
17 *fits under section 223 of the Social Security Act*
18 *for December 1990 or is eligible for supplemental*
19 *security income benefits under title XVI of such*
20 *Act, or State supplementary payments of the type*
21 *referred to in section 1616(a) of such Act (or pay-*
22 *ments of the type described in section 212(a) of*
23 *Public Law 93-66) which are paid by the Secre-*
24 *tary under an agreement referred to in such sec-*

1 *tion 1616(a) (or in section 212(b) of Public Law*
2 *93-66), for January 1991,*
3 *(B) applied for widow's or widower's insur-*
4 *ance benefits under subsection (e) or (f) of section*
5 *202 of the Social Security Act during 1990, and*
6 *(C) is not entitled to such benefits under*
7 *such subsection (e) or (f) for any month on the*
8 *basis of such application by reason of the defini-*
9 *tion of disability under section 223(d)(2)(B) of*
10 *the Social Security Act (as in effect immediately*
11 *before the date of the enactment of this Act), and*
12 *would have been so entitled for such month on the*
13 *basis of such application if the amendments made*
14 *by this section had been applied with respect to*
15 *such application,*
16 *for purposes of determining such individual's entitle-*
17 *ment to such benefits under subsection (e) or (f) of sec-*
18 *tion 202 of the Social Security Act for months after*
19 *December 1990, the requirement of paragraph*
20 *(1)(C)(i) of such subsection shall be deemed to have*
21 *been met.*

1 **SEC. 2003. DEPENDENCY REQUIREMENTS APPLICABLE TO A**
2 **CHILD ADOPTED BY A SURVIVING SPOUSE.**
3 *(a) IN GENERAL.—Section 216(e) of the Social Secu-*
4 *rity Act (42 U.S.C. 416(e)) is amended in the second sen-*
5 *tence—*
6 *(1) by striking "at the time of such individual's*
7 *death living in such individual's household" and in-*
8 *serting "either living with or receiving at least one-half*
9 *of his support from such individual at the time of such*
10 *individual's death"; and*
11 *(2) by striking "; except" and all that follows and*
12 *inserting a period.*
13 *(b) EFFECTIVE DATE.—The amendments made by this*
14 *section shall apply with respect to benefits payable for months*
15 *after December 1990, but only on the basis of applications*
16 *filed after December 31, 1990.*
17 **SEC. 2004. ENTITLEMENT TO BENEFITS OF DEEMED SPOUSE**
18 **AND LEGAL SPOUSE.**
19 *(a) CONTINUED ENTITLEMENT OF DEEMED SPOUSE*
20 *DESPITE ENTITLEMENT OF LEGAL SPOUSE.—Section*
21 *216(h)(1) of the Social Security Act (42 U.S.C. 416(h)(1))*
22 *is amended—*
23 *(1) in subparagraph (A)—*
24 *(A) by inserting "(i)" after "(h)(1)(A)"; and*
25 *(B) by striking "If such courts" in the*
26 *second sentence and inserting the following:*

1 *"(ii) If such courts"; and*

2 *(2) in subparagraph (B)—*

3 *(A) by inserting "(i)" after "(B)";*

4 *(B) by striking "The provisions of the pre-*
5 *ceding sentence" in the second sentence and in-*
6 *serting the following:*

7 *"(ii) The provisions of clause (i)";*

8 *(C) by striking "(i) if another" in the second*
9 *sentence and all that follows through "or (ii)";*

10 *(D) by striking "The entitlement" in the*
11 *third sentence and inserting the following:*

12 *"(iii) The entitlement";*

13 *(E) by striking "subsection (b), (c), (e), (f),*
14 *or (g)" in the third sentence and inserting "sub-*
15 *section (b) or (c)",*

16 *(F) by striking "wife, widow, husband, or*
17 *widower" the first place it appears in the third*
18 *sentence and inserting "wife or husband";*

19 *(G) by striking "(i) in which" in the third*
20 *sentence and all that follows through "in which*
21 *such applicant entered" and inserting "in which*
22 *such person enters";*

23 *(H) by striking "For purposes" in the fourth*
24 *sentence and inserting the following:*

25 *"(iv) For purposes";*

1 *and*

2 *(I) by striking "(i)" and "(ii)" in the fourth*
3 *sentence and inserting "(I)" and "(II)", respec-*
4 *tively.*

5 *(b) TREATMENT OF DIVORCE IN THE CONTEXT OF*
6 *INVALID MARRIAGE.—Section 216(h)(1)(B)(i) of such Act*
7 *(as amended by subsection (a)) is further amended—*

8 *(1) by striking "where under subsection (b), (c),*
9 *(f), or (g) such applicant is not the wife, widow, hus-*
10 *band, or widower of such individual" and inserting*
11 *"where under subsection (b), (c), (d), (f), or (g) such*
12 *applicant is not the wife, divorced wife, widow, surviv-*
13 *ing divorced wife, husband, divorced husband, widow-*
14 *er, or surviving divorced husband of such individual";*

15 *(2) by striking "and such applicant" and all that*
16 *follows through "files the application,";*

17 *(3) by striking "subsections (b), (c), (f), and (g)"*
18 *and inserting "subsections (b), (c), (d), (f), and (g)";*
19 *and*

20 *(4) by adding at the end the following new sen-*
21 *tences: "Notwithstanding the preceding sentence, in the*
22 *case of any person who would be deemed under the*
23 *preceding sentence a wife, widow, husband, or widower*
24 *of the insured individual, such marriage shall not be*
25 *deemed to be a valid marriage unless the applicant and*

1 *the insured individual were living in the same house-*
2 *hold at the time of the death of the insured individual*
3 *or (if the insured individual is living) at the time the*
4 *applicant files the application. A marriage that is*
5 *deemed to be a valid marriage by reason of the preced-*
6 *ing sentence shall continue to be deemed a valid mar-*
7 *riage if the insured individual and the person entitled*
8 *to benefits as the wife or husband of the insured indi-*
9 *vidual are no longer living in the same household at*
10 *the time of the death of such insured individual.".*
11 *(c) TREATMENT OF MULTIPLE ENTITLEMENTS*
12 *UNDER THE FAMILY MAXIMUM.—Section 203(a)(3) of*
13 *such Act (42 U.S.C. 403(a)(3)) is amended by adding after*
14 *subparagraph (C) the following new subparagraph:*
15 *"(D) In any case in which—*
16 *"(i) two or more individuals are entitled to*
17 *monthly benefits for the same month as a spouse under*
18 *subsection (b) or (c) of section 202, or as a surviving*
19 *spouse under subsection (e), (f), or (g) of section 202,*
20 *"(ii) at least one of such individuals is entitled by*
21 *reason of subparagraph (A)(ii) or (B) of section*
22 *216(h)(1), and*
23 *"(iii) such entitlements are based on the wages*
24 *and self-employment income of the same insured indi-*
25 *vidual,*

1 *the benefit of the entitled individual whose entitlement is*
2 *based on a valid marriage (as determined without regard to*
3 *subparagraphs (A)(ii) and (B) of section 216(h)(1)) to such*
4 *insured individual shall, for such month and all months*
5 *thereafter, be determined without regard to this subsection,*
6 *and the benefits of all other individuals who are entitled, for*
7 *such month or any month thereafter, to monthly benefits*
8 *under section 202 based on the wages and self-employment*
9 *income of such insured individual shall be determined as if*
10 *such entitled individual were not entitled to benefits for such*
11 *month.".*
12 *(d) CONFORMING AMENDMENT.—Section 203(a)(6) of*
13 *such Act (42 U.S.C. 403(a)(6)) is amended by inserting*
14 *"(3)(D)," after "(3)(C),".*
15 *(e) EFFECTIVE DATE.—*
16 *(1) IN GENERAL.—The amendments made by*
17 *this section shall apply with respect to benefits for*
18 *months after December 1990.*
19 *(2) TERMINATED BENEFICIARIES AND DI-*
20 *VORCED DEEMED SPOUSES.—In the case of individ-*
21 *uals whose benefits under title II of the Social Securi-*
22 *ty Act have been terminated under section*
23 *216(h)(1)(B) of such Act before January 1, 1991, or*
24 *who would be entitled to benefits under such title for*
25 *any month after December 1990 as a divorced spouse*

1 *or surviving divorced spouse solely by reason of the*
2 *amendments made by this section, the amendments*
3 *made by this section shall apply only with respect to*
4 *benefits for which application is filed with the Secre-*
5 *tary of Health and Human Services after December*
6 *31, 1990.*

7 ***SEC. 2005. REPRESENTATIVE PAYEE REFORMS.***

8 *(a) IMPROVEMENTS IN THE REPRESENTATIVE*
9 *PAYEE SELECTION AND RECRUITMENT PROCESS.—*
10 *(1) AUTHORITY FOR CERTIFICATION OF PAY-*
11 *MENTS TO REPRESENTATIVE PAYEES.—*
12 *(A) TITLE II.—Section 205(j)(1) of the*
13 *Social Security Act (42 U.S.C. 405(j)) is*
14 *amended to read as follows:*
15 *"REPRESENTATIVE PAYEES*
16 *"(j)(1) If the Secretary determines that the interest of*
17 *any individual under this title would be served thereby, certi-*
18 *fication of payment of such individual's benefit under this*
19 *title may be made, regardless of the legal competency or in-*
20 *competency of the individual, either for direct payment to the*
21 *individual, or for his or her use and benefit, to another indi-*
22 *vidual or organization with respect to whom the requirements*
23 *of paragraph (2) have been met (hereinafter in this subsection*
24 *referred to as the individual's 'representative payee'). If the*
25 *Secretary or a court of competent jurisdiction determines that*

1 *a representative payee has misused any individual's benefit*
2 *paid to such representative payee pursuant to this subsection*
3 *or section 1631(a)(2), the Secretary shall promptly revoke*
4 *certification for payment of benefits to such representative*
5 *payee pursuant to this subsection and certify payment to an*
6 *alternative representative payee or to the individual.".*

7 *(B) TITLE XVI.—*

8 *(i) IN GENERAL.—Section*
9 *1631(a)(2)(A) of such Act (42 U.S.C.*
10 *1383(a)(2)(A)) is amended to read as fol-*
11 *lows:*

12 *"(2) PERSONS TO WHOM PAYMENTS MAY BE*
13 *MADE.—*

14 *"(A) AUTHORITY TO MAKE PAYMENTS.—*

15 *"(i) PAYMENTS TO ELIGIBLE INDIVID-*
16 *UALS.—Payments of the benefit of any individual*
17 *may be made to any such individual or to the eli-*
18 *gible spouse (if any) of such individual or partly*
19 *to each.*

20 *"(ii) PAYMENTS TO REPRESENTATIVE*
21 *PAYEES.—Upon a determination by the Secre-*
22 *tary that the interest of such individual would be*
23 *served thereby, or in the case of any individual or*
24 *eligible spouse referred to in section*
25 *1611(e)(3)(A), such payments shall be made, re-*
26 *gardless of the legal competency or incompetency*

1 *of the individual or eligible spouse, to another in-*
2 *dividual who, or to a qualified organization (as*
3 *defined in subparagraph (D)(ii)) which, is inter-*
4 *ested in or concerned with the welfare of such in-*
5 *dividual and with respect to whom the require-*
6 *ments of subparagraph (B) have been met (in this*
7 *paragraph referred to as such individual's 'repre-*
8 *sentative payee') for the use and benefit of the in-*
9 *dividual or eligible spouse.*
10 *"(iii) MISUSE OF PAYMENTS.—If the Sec-*
11 *retary or a court of competent jurisdiction deter-*
12 *mines that the representative payee of an individ-*
13 *ual or eligible spouse has misused any benefits*
14 *which have been paid to the representative payee*
15 *pursuant to subclause (I) or section 205(j)(1), the*
16 *Secretary shall promptly terminate payment of*
17 *benefits to the representative payee pursuant to*
18 *this subparagraph, and provide for payment of*
19 *benefits to the individual or eligible spouse or to*
20 *an alternative representative payee of the individ-*
21 *ual or eligible spouse.".*
22 *(ii) CONFORMING AMENDMENTS.—*
23 *Section 1631(a)(2)(C) of such Act (42*
24 *U.S.C. 1383(a)(2)(C)) is amended—*

1 *(I) in clause (i), by striking "a*
2 *person other than the individual or*
3 *spouse entitled to such payment" and*
4 *inserting "representative payee of an*
5 *individual or spouse";*
6 *(II) in clauses (ii), (iii), and (iv),*
7 *by striking "other person to whom such*
8 *payment is made" each place it appears*
9 *and inserting "representative payee";*
10 *and*
11 *(III) in clause (v)—*
12 *(aa) by striking "person re-*
13 *ceiving payments on behalf of an-*
14 *other" and inserting "representa-*
15 *tive payee"; and*
16 *(bb) by striking "person re-*
17 *ceiving such payments" and in-*
18 *serting "representative payee".*
19 *(2) PROCEDURE FOR SELECTING REPRESENTA-*
20 *TIVE PAYEES.—*
21 *(A) IN GENERAL.—*
22 *(i) TITLE II.—Section 205(j)(2) of*
23 *such Act (42 U.S.C. 405(j)(2)) is amended*
24 *to read as follows:*

1 *"(2)(A) Any certification made under paragraph (1) for*
2 *payment of benefits to an individual's representative payee*
3 *shall be made on the basis of—*
4 *"(i) an investigation by the Secretary of the*
5 *person to serve as representative payee, which shall be*
6 *conducted in advance of such certification and shall, to*
7 *the extent practicable, include a face-to-face interview*
8 *with the person to serve as representative payee, and*
9 *"(ii) adequate evidence that such certification is*
10 *in the interest of such individual (as determined by the*
11 *Secretary in regulations).*
12 *"(B)(i) As part of the investigation referred to in sub-*
13 *paragraph (A)(i), the Secretary shall—*
14 *"(I) require the person being investigated to*
15 *submit documented proof of the identity of such person,*
16 *unless information establishing such identity has been*
17 *submitted with an application for benefits under this*
18 *title or title XVI,*
19 *"(II) verify such person's social security account*
20 *number (or employer identification number),*
21 *"(III) determine whether such person has been*
22 *convicted of a violation of section 208 or 1632, and*
23 *"(IV) determine whether certification of payment*
24 *of benefits to such person has been revoked pursuant to*
25 *this subsection or payment of benefits to such person*

1 *has been terminated pursuant to section*
2 *1631(a)(2)(A)(ii)(II) by reason of misuse of funds*
3 *paid as benefits under this title or title XVI.*
4 *"(ii) The Secretary shall establish and maintain 2 cen-*
5 *tralized files, which shall be updated periodically and which*
6 *shall be in a form which renders them readily retrievable by*
7 *each servicing office of the Social Security Administration.*
8 *Such files shall consist of—*
9 *"(I) a list of the names and social security ac-*
10 *count numbers (or employer identification numbers) of*
11 *all persons with respect to whom certification of pay-*
12 *ment of benefits has been revoked on or after January*
13 *1, 1991, pursuant to this subsection, or with respect to*
14 *whom payment of benefits has been terminated on or*
15 *after such date pursuant to section 1631(a)(2), by*
16 *reason of misuse of funds paid as benefits under this*
17 *title or title XVI, and*
18 *"(II) a list of the names and social security ac-*
19 *count numbers (or employer identification numbers) of*
20 *all persons who have been convicted of a violation of*
21 *section 208, 1107(a), 1128B, or 1632.*
22 *"(C)(i) Benefits of an individual may not be certified*
23 *for payment to any other person pursuant to this subsection*
24 *if—*

1 *"(I) such person has previously been convicted as*
2 *described in subparagraph (B)(i)(III),*
3 *"(II) except as provided in clause (ii), certifica-*
4 *tion of payment of benefits to such person under this*
5 *subsection has previously been revoked as described in*
6 *subparagraph (B)(i)(IV), or payment of benefits to*
7 *such person pursuant to section 1631(a)(2)(A)(ii) has*
8 *previously been terminated as described in section*
9 *1631(a)(2)(B)(ii)(I)(dd), or*
10 *"(III) except as provided in clause (iii), such*
11 *person is a creditor of such individual who provides*
12 *such individual with goods or services for consider-*
13 *ation.*
14 *"(ii) The Secretary shall prescribe regulations under*
15 *which the Secretary may grant exemptions to any person*
16 *from the provisions of clause (i)(II) on a case-by-case basis if*
17 *such exemption is in the best interest of the individual whose*
18 *benefits would be paid to such person pursuant to this subsec-*
19 *tion.*
20 *"(iii) Clause (i)(III) shall not apply with respect to any*
21 *person who is a creditor referred to therein if such creditor*
22 *is—*
23 *"(I) a relative of such individual if such relative*
24 *resides in the household of such individual,*

1 *"(II) a legal guardian or legal representative of*
2 *such individual,*
3 *"(III) a facility that is licensed or certified as a*
4 *care facility under the law of a State or a political*
5 *subdivision of a State,*
6 *"(IV) a person who is an administrator, owner,*
7 *or employee of a facility referred to in subclause (III)*
8 *if such individual resides in such facility, and the cer-*
9 *tification of payment to such facility or such person is*
10 *made only after good faith efforts have been made by*
11 *the local servicing office of the Social Security Admin-*
12 *istration to locate an alternative representative payee to*
13 *whom such certification of payment would serve the*
14 *best interests of such individual, or*
15 *"(V) an individual who is determined by the Sec-*
16 *retary, on the basis of written findings and under pro-*
17 *cedures which the Secretary shall prescribe by regula-*
18 *tion, to be acceptable to serve as a representative payee.*
19 *"(iv) The procedures referred to in clause (iii)(V) shall*
20 *require the individual who will serve as representative payee*
21 *to establish, to the satisfaction of the Secretary, that—*
22 *"(I) such individual poses no risk to the benefici-*
23 *ary,*

1 *"(II) the financial relationship of such individual*
2 *to the beneficiary poses no substantial conflict of inter-*
3 *est, and*
4 *"(III) no other more suitable representative payee*
5 *can be found.*
6 *"(D)(i) Subject to clause (ii), if the Secretary makes a*
7 *determination described in the first sentence of paragraph (1)*
8 *with respect to any individual's benefit and determines that*
9 *direct payment of the benefit to the individual would cause*
10 *substantial harm to the individual, the Secretary may defer*
11 *(in the case of initial entitlement) or suspend (in the case of*
12 *existing entitlement) direct payment of such benefit to the*
13 *individual, until such time as the selection of a representative*
14 *payee is made pursuant to this subsection.*
15 *"(ii)(I) Except as provided in subclause (II), any defer-*
16 *ral or suspension of direct payment of a benefit pursuant to*
17 *clause (i) shall be for a period of not more than 1 month.*
18 *"(II) Subclause (I) shall not apply in any case in*
19 *which the individual is, as of the date of the Secretary's de-*
20 *termination, legally incompetent or under the age of 15.*
21 *"(iii) Payment pursuant to this subsection of any bene-*
22 *fits which are deferred or suspended pending the selection of*
23 *a representative payee shall be made to the individual or the*
24 *representative payee as a single sum or over such period of*

1 *time as the Secretary determines is in the best interest of the*
2 *individual entitled to such benefits.*

3 *"(E)(i) Any individual who is dissatisfied with a deter-*
4 *mination by the Secretary to certify payment of such individ-*
5 *ual's benefit to a representative payee under paragraph (1) or*
6 *with the designation of a particular person to serve as repre-*
7 *sentative payee shall be entitled to a hearing by the Secretary*
8 *to the same extent as is provided in subsection (b), and to*
9 *judicial review of the Secretary's final decision as is provid-*
10 *ed in subsection (g).*

11 *"(ii) In advance of the certification of payment of an*
12 *individual's benefit to a representative payee under para-*
13 *graph (1), the Secretary shall provide written notice of the*
14 *Secretary's initial determination to certify such payment.*
15 *Such notice shall be provided to such individual, except that,*
16 *if such individual—*

17 *"(I) is under the age of 15,*
18 *"(II) is an unemancipated minor under the age of*
19 *18, or*
20 *"(III) is legally incompetent,*

21 *then such notice shall be provided solely to the legal guardian*
22 *or legal representative of such individual.*

23 *"(iii) Any such notice shall be clearly written in lan-*
24 *guage that is easily understandable to the reader, shall iden-*
25 *tify the person to be designated as such individual's repre-*

1 *sentative payee, and shall explain to the reader the right*
2 *under clause (i) of such individual or such individual's legal*
3 *guardian or legal representative—*
4 *"(I) to appeal a determination that a representa-*
5 *tive payee is necessary for such individual,*
6 *"(II) to appeal the designation of a particular*
7 *person to serve as the representative payee of such in-*
8 *dividual, and*
9 *"(III) to review the evidence upon which such*
10 *designation is based and submit additional evidence.".*
11 *(ii) TITLE XVI.—Section*
12 *1631(a)(2)(B) of such Act (42 U.S.C.*
13 *1383(a)(2)(B)) is amended to read as fol-*
14 *lows:*
15 *"(B) SELECTION OF REPRESENTATIVE*
16 *PAYEES.—*
17 *"(i) BASIS FOR SELECTION.—Any provi-*
18 *sion made under subparagraph (A) for payment of*
19 *benefits to the representative payee of an individ-*
20 *ual or eligible spouse shall be made on the basis*
21 *of—*
22 *"(I) an investigation by the Secretary*
23 *of the person to serve as representative payee,*
24 *which shall be conducted before such pay-*
25 *ment, and shall, to the extent practicable, in-*

1 *clude a face-to-face interview with the*
2 *person; and*
3 *"(II) adequate evidence that such pay-*
4 *ment is in the interest of the individual or*
5 *eligible spouse (as determined by the Secre-*
6 *tary in regulations).*
7 *"(ii) ELEMENTS OF THE INVESTIGA-*
8 *TION.—*
9 *"(I) IN GENERAL.—As part of the in-*
10 *vestigation referred to in clause (i)(I), the*
11 *Secretary shall—*
12 *"(aa) require the person being in-*
13 *vestigated to submit documented proof of*
14 *the identity of such person, unless infor-*
15 *mation establishing such identity was*
16 *submitted with an application for bene-*
17 *fits under title II or this title;*
18 *"(bb) verify the social security ac-*
19 *count number (or employer identifica-*
20 *tion number) of such person;*
21 *"(cc) determine whether such*
22 *person has been convicted of a violation*
23 *of section 208 or 1632; and*
24 *"(dd) determine whether payment*
25 *of benefits to such person has been ter-*

1 *minated pursuant to subparagraph*
2 *(A)(ii)(II), and whether certification of*
3 *payment of benefits to such person has*
4 *been revoked pursuant to section 205(j),*
5 *by reason of misuse of funds paid as*
6 *benefits under title II or this title.*
7 *"(II) MAINTENANCE OF RECORDS.—*
8 *The Secretary shall establish and maintain*
9 *2 centralized files, each of which shall be up-*
10 *dated periodically and which shall be in a*
11 *form which makes such files readily retrieva-*
12 *ble by each servicing office of the Social Se-*
13 *curity Administration, containing—*
14 *"(aa) a list of the names and*
15 *social security account numbers (or em-*
16 *ployer identification numbers) of all*
17 *persons with respect to whom payment*
18 *of benefits has been terminated on or*
19 *after January 1, 1991, pursuant to sub-*
20 *paragraph (A)(ii)(II), or with respect to*
21 *whom certification of payment of bene-*
22 *fits has been revoked on or after such*
23 *date pursuant to section 205(j), by*
24 *reason of misuse of funds paid as bene-*
25 *fits under title II or this title; and*

1 *"(bb) a list of the names and*
2 *social security account numbers (or em-*
3 *ployer identification numbers) of all*
4 *persons who have been convicted of a*
5 *violation of section 208, 1107(a),*
6 *1128B, or 1632.*
7 *"(iii) DISQUALIFICATIONS.—Benefits of an*
8 *individual may not be paid to any other person*
9 *pursuant to subparagraph (A)(ii) if—*
10 *"(I) such person has previously been*
11 *convicted as described in clause (ii)(I)(cc);*
12 *"(II) except as provided in clause (iv),*
13 *payment of benefits to such person pursuant*
14 *to subparagraph (A)(ii) has previously been*
15 *terminated as described in clause (ii)(I)(dd),*
16 *or certification of payment of benefits to such*
17 *person under section 215(j) has previously*
18 *been revoked as described in section*
19 *215(j)(2)(B)(i)(IV); or*
20 *"(III) except as provided in clause (v),*
21 *such person is a creditor of the individual*
22 *who provides the individual with goods or*
23 *services for consideration.*
24 *"(iv) REGULATORY EXEMPTIONS.—The*
25 *Secretary shall prescribe regulations under which*

1 *the Secretary may grant an exemption from*
2 *clause (iii)(II) to any person on a case-by-case*
3 *basis if such exemption would be in the best inter-*
4 *est of the individual or eligible spouse whose bene-*
5 *fits under this title would be paid to such person*
6 *pursuant to subparagraph (A)(ii).*
7 *"(v) EXEMPTIONS FOR CERTAIN CREDI-*
8 *TORS.—*
9 *"(I) IN GENERAL.—Clause (iii)(III)*
10 *shall not apply to any person who is a credi-*
11 *tor of the individual if the creditor is—*
12 *"(aa) a relative of the individual if*
13 *such relative resides in the household of*
14 *such individual;*
15 *"(bb) a legal guardian or legal rep-*
16 *resentative of the individual;*
17 *"(cc) a facility that is licensed or*
18 *certified as a care facility under the law*
19 *of a State or a political subdivision of a*
20 *State;*
21 *"(dd) a person who is an adminis-*
22 *trator, owner, or employee of a facility*
23 *referred to in clause (cc) if the individ-*
24 *ual resides in the facility, and the pay-*
25 *ment of benefits under this title to the*

1 *facility or the person is made only after*
2 *good faith efforts have been made by the*
3 *local servicing office of the Social Secu-*
4 *rity Administration to locate an alterna-*
5 *tive representative payee to whom the*
6 *payment of such benefits would serve*
7 *the best interests of the individual; or*
8 *"(ee) an individual who is deter-*
9 *mined by the Secretary, on the basis of*
10 *written findings and under procedures*
11 *which the Secretary shall prescribe by*
12 *regulation, to be acceptable to serve as a*
13 *representative payee.*
14 *"(II) PROCEDURES APPLICABLE TO*
15 *EXEMPTION OF CERTAIN CREDITORS BY*
16 *SECRETARY OF HHS.—The procedures re-*
17 *ferred to in subclause (I)(ee) shall require*
18 *the individual who will serve as representa-*
19 *tive payee to establish, to the satisfaction of*
20 *the Secretary, that—*
21 *"(aa) such individual poses no risk*
22 *to the beneficiary;*
23 *"(bb) the financial relationship of*
24 *such individual to the beneficiary poses*
25 *no substantial conflict of interest; and*

1 *"(cc) no other more suitable repre-*
2 *sentative payee can be found.*
3 *"(vi) DEFERRAL OF PAYMENTS IN CERTAIN*
4 *CASES.—*
5 *"(I) IN GENERAL.—Subject to sub-*
6 *clause (II), if the Secretary makes a deter-*
7 *mination described in subparagraph*
8 *(A)(ii)(I) with respect to any individual's*
9 *benefit and determines that direct payment of*
10 *the benefit to the individual would cause sub-*
11 *stantial harm to the individual, the Secre-*
12 *tary may defer (in the case of initial entitle-*
13 *ment) or suspend (in the case of existing en-*
14 *titlement) direct payment of such benefit to*
15 *the individual, until such time as the selec-*
16 *tion of a representative payee is made pursu-*
17 *ant to this subparagraph.*
18 *"(II) MAXIMUM DEFERRAL PERIOD.—*
19 *"(aa) IN GENERAL.—Except as*
20 *provided in subdivision (bb), any defer-*
21 *ral or suspension of direct payment of a*
22 *benefit pursuant to subclause (I) shall*
23 *be for a period of not more than 1*
24 *month.*

1 *"(bb) EXCEPTIONS.—Subdivision*
2 *(aa) shall not apply in any case in*
3 *which the individual or eligible spouse*
4 *is, as of the date of the Secretary's de-*
5 *termination, legally incompetent or*
6 *under the age 15 years.*
7 *"(vii) RESUMPTION OF PAYMENTS.—Pay-*
8 *ment pursuant to this subparagraph of any bene-*
9 *fits which are deferred or suspended pending the*
10 *selection of a representative payee shall be*
11 *made—*
12 *"(I) to the representative payee upon*
13 *such selection; and*
14 *"(II) as a single payment, or over such*
15 *period as the Secretary determines is in the*
16 *best interests of the individual entitled to*
17 *such benefits.*
18 *"(viii) ADMINISTRATIVE AND JUDICIAL*
19 *REVIEW.—*
20 *"(I) IN GENERAL.—Any individual*
21 *who is dissatisfied with a determination by*
22 *the Secretary under subparagraph (A)(ii) to*
23 *pay such individual's benefits under this title*
24 *to a representative payee, or with the selec-*
25 *tion of a particular person to be the repre-*

1 *sentative payee of the individual, shall be en-*
2 *titled to a hearing by the Secretary, and to*
3 *judicial review of the Secretary's final deci-*
4 *sion, to the same extent as is provided in*
5 *subsection (c).*
6 *"(II) NOTICE TO PRECEDE FIRST*
7 *PAYMENT TO REPRESENTATIVE PAYEE.—*
8 *Before the first payment of an individual's*
9 *benefit to a representative payee under sub-*
10 *paragraph (A)(ii), the Secretary shall pro-*
11 *vide written notice of the Secretary's initial*
12 *determination to so make the payment. Such*
13 *notice shall be provided to—*
14 *"(aa) the legal guardian or legal*
15 *representative of the individual, if the*
16 *individual has not attained the age of*
17 *15 years, is an unemancipated minor*
18 *who has not attained the age of 18*
19 *years, or is legally incompetent; or*
20 *"(bb) the individual, in any other*
21 *case.*
22 *"(III) CONTENTS OF NOTICE.—Any*
23 *notice referred to in subclause (II) shall be*
24 *clearly written in language that is easily un-*
25 *derstandable to the reader, identify the*

1 *person selected to be the representative payee*
2 *of the individual, and explain to the reader*
3 *the right under subclause (I) of the individ-*
4 *ual or the legal guardian or legal representa-*
5 *tive of the individual—*
6 *"(aa) to appeal a determination*
7 *that a representative payee is necessary*
8 *for the individual;*
9 *"(bb) to appeal the selection of a*
10 *particular person to be the representa-*
11 *tive payee of the individual; and*
12 *"(cc) to review the evidence upon*
13 *which the selection is based and submit*
14 *additional evidence.".*
15 *(B) REPORT ON FEASIBILITY OF OBTAIN-*
16 *ING READY ACCESS TO CERTAIN CRIMINAL*
17 *FRAUD RECORDS.—As soon as practicable after*
18 *the date of the enactment of this Act, the Secre-*
19 *tary of Health and Human Services, in consulta-*
20 *tion with the Attorney General of the United*
21 *States and the Secretary of the Treasury, shall*
22 *study the feasibility of establishing and maintain-*
23 *ing a current list, which would be readily avail-*
24 *able to local offices of the Social Security Admin-*
25 *istration for use in investigations undertaken pur-*

1 *suant to section 205(j)(2) or 1631(a)(2)(B) of the*
2 *Social Security Act, of the names and social se-*
3 *curity account numbers of individuals who have*
4 *been convicted of a violation of section 495 of title*
5 *18, United States Code. The Secretary of Health*
6 *and Human Services shall, not later than July 1,*
7 *1991, submit the results of such study, together*
8 *with any recommendations, to the Committee on*
9 *Ways and Means of the House of Representatives*
10 *and the Committee on Finance of the Senate.*
11 *(3) PROVISION FOR COMPENSATION OF QUALI-*
12 *FIED ORGANIZATIONS SERVING AS REPRESENTATIVE*
13 *PAYEES.—*
14 *(A) IN GENERAL.—*
15 *(i) TITLE II.—Section 205(j) of such*
16 *Act (42 U.S.C. 405(j)) is amended by redes-*
17 *ignating paragraph (4) as paragraph (5),*
18 *and by inserting after paragraph (3) the fol-*
19 *lowing new paragraph:*
20 *"(4)(A) A qualified organization may collect from an*
21 *individual a monthly fee for expenses (including overhead)*
22 *incurred by such organization in providing services per-*
23 *formed as such individual's representative payee pursuant to*
24 *this subsection if such fee does not exceed the lesser of—*
25 *"(i) 10 percent of the monthly benefit involved, or*

1 *"(ii) $25.00 per month.*

2 *Any agreement providing for a fee in excess of the amount*
3 *permitted under this subparagraph shall be void and shall be*
4 *treated as misuse by such organization of such individual's*
5 *benefits.*

6 *"(B) For purposes of this paragraph, the term 'qualified*
7 *organization' means any community-based nonprofit social*
8 *service agency which is bonded or licensed in each State in*
9 *which it serves as a representative payee and which, in ac-*
10 *cordance with any applicable regulations of the Secretary—*

11 *"(i) regularly provides services as the representa-*
12 *tive payee, pursuant to this subsection or section*
13 *1631(a)(2), concurrently to 5 or more individuals, and*

14 *"(ii) demonstrates to the satisfaction of the Secre-*
15 *tary that such agency is not otherwise a creditor of any*
16 *such individual.*

17 *"(C) Any qualified organization which knowingly*
18 *charges or collects, directly or indirectly, any fee in excess of*
19 *the maximum fee prescribed under subparagraph (A) or*
20 *makes any agreement, directly or indirectly, to charge or col-*
21 *lect any fee in excess of such maximum fee, shall be fined in*
22 *accordance with title 18, United States Code, or imprisoned*
23 *not more than 6 months, or both.*

24 *"(D) This paragraph shall cease to be effective on Janu-*
25 *ary 1, 1994.".*

1 *(ii) TITLE XVI.—Section 1631(a)(2) of*
2 *such Act (42 U.S.C. 1383(a)(2)) is amend-*
3 *ed—*
4 *(I) by redesignating subparagraph*
5 *(D) as subparagraph (E);*
6 *(II) by moving subparagraph (C)*
7 *4 ems to the right; and*
8 *(III) by inserting after subpara-*
9 *graph (C) the following:*
10 *"(D) LIMITATION ON FEES OF QUALIFIED OR-*
11 *GANIZATIONS SERVING AS REPRESENTATIVE*
12 *PAYEES.—*
13 *"(i) MAXIMUM FEES.—A qualified organi-*
14 *zation may collect from an individual a monthly*
15 *fee for expenses (including overhead) incurred by*
16 *such organization in providing services performed*
17 *as such individual's representative payee pursu-*
18 *ant to subparagraph (A)(ii) if the fee does not*
19 *exceed the lesser of—*
20 *"(I) 10 percent of the monthly benefit*
21 *involved, or*
22 *"(II) $25.00 per month.*
23 *Any agreement providing for a fee in excess of the*
24 *amount permitted under this clause shall be void*

1 *and shall be treated as misuse by the organization*
2 *of the individual's benefits under this title.*
3 *"(ii) QUALIFIED ORGANIZATION DE-*
4 *FINED.—For purposes of this subparagraph, the*
5 *term 'qualified organization' means any commu-*
6 *nity-based nonprofit social service agency*
7 *which—*
8 *"(I) is bonded or licensed in each State*
9 *in which the agency serves as a representa-*
10 *tive payee; and*
11 *"(II) in accordance with any applicable*
12 *regulations of the Secretary—*
13 *"(aa) regularly provides services*
14 *as a representative payee pursuant to*
15 *subparagraph (A)(ii) or section*
16 *205(j)(4) concurrently to 5 or more in-*
17 *dividuals; and*
18 *"(bb) demonstrates to the satisfac-*
19 *tion of the Secretary that such person is*
20 *not otherwise a creditor of any such in-*
21 *dividual.*
22 *"(iii) PROHIBITION; PENALTY.—Any quali-*
23 *fied organization which knowingly charges or col-*
24 *lects, directly or indirectly, any fee in excess of*
25 *the maximum fee prescribed under clause (i) or*

1 *makes any agreement, directly or indirectly, to*
2 *charge or collect any fee in excess of such maxi-*
3 *mum fee, shall be fined in accordance with title*
4 *18, United States Code, or imprisoned not more*
5 *than 6 months, or both.*
6 *"(iv) TERMINATION.—This subparagraph*
7 *shall cease to be effective on January 1, 1994.".*
8 *(B) STUDIES AND REPORTS.—*
9 *(i) REPORT BY SECRETARY OF*
10 *HEALTH AND HUMAN SERVICES.—Not later*
11 *than January 1, 1993, the Secretary of*
12 *Health and Human Services shall transmit*
13 *a report to the Committee on Ways and*
14 *Means of the House of Representatives and*
15 *the Committee on Finance of the Senate set-*
16 *ting forth the number and types of qualified*
17 *organizations which have served as represent-*
18 *ative payees and have collected fees for such*
19 *service pursuant to any amendment made by*
20 *subparagraph (A), and*
21 *(ii) REPORT BY COMPTROLLER GEN-*
22 *ERAL.—Not later than July 1, 1992, the*
23 *Comptroller General of the United States*
24 *shall conduct a study of the advantages and*
25 *disadvantages of allowing qualified organiza-*

1 *tions serving as representative payees to*
2 *charge fees pursuant to the amendments*
3 *made by subparagraph (A) and shall trans-*
4 *mit a report to the Committee on Ways and*
5 *Means of the House of Representatives and*
6 *the Committee on Finance of the Senate set-*
7 *ting forth the results of such study.*
8 *(4) STUDY RELATING TO FEASIBILITY OF*
9 *SCREENING OF INDIVIDUALS WITH CRIMINAL*
10 *RECORDS.—As soon as practicable after the date of the*
11 *enactment of this Act, the Secretary of Health and*
12 *Human Services shall conduct a study of the feasibili-*
13 *ty of determining the type of representative payee ap-*
14 *plicant most likely to have a felony or misdemeanor*
15 *conviction, the suitability of individuals with prior*
16 *convictions to serve as representative payees, and the*
17 *circumstances under which such applicants could be al-*
18 *lowed to serve as representative payees. The Secretary*
19 *shall transmit the results of such study to the Commit-*
20 *tee on Ways and Means of the House of Representa-*
21 *tives and the Committee on Finance of the Senate not*
22 *later than July 1, 1992.*
23 *(5) EFFECTIVE DATES.—*
24 *(A) USE AND SELECTION OF REPRESENTA-*
25 *TIVE PAYEES.—The amendments made by para-*

1 *graphs (1) and (2) shall take effect January 1,*
2 *1991, and shall apply only with respect to—*
3 *(i) certifications of payment of benefits*
4 *under title II of the Social Security Act to*
5 *representative payees made on or after such*
6 *date; and*
7 *(ii) provisions for payment of benefits*
8 *under title XVI of such Act to representative*
9 *payees made on or after such date.*
10 *(B) COMPENSATION OF REPRESENTATIVE*
11 *PAYEES.—The amendments made by paragraph*
12 *(3) shall take effect July 1, 1991, and the Secre-*
13 *tary of Health and Human Services shall pre-*
14 *scribe initial regulations necessary to carry out*
15 *such amendments not later than such date.*
16 *(b) IMPROVEMENTS IN RECORDKEEPING AND AUDIT-*
17 *ING REQUIREMENTS.—*
18 *(1) IMPROVED ACCESS TO CERTAIN INFORMA-*
19 *TION.—*
20 *(A) IN GENERAL.—Section 205(j)(3) of the*
21 *Social Security Act is amended—*
22 *(i) by striking subparagraph (B);*
23 *(ii) by redesignating subparagraphs*
24 *(C), (D), and (E) as subparagraphs (B),*
25 *(C), and (D), respectively;*

1 *(iii) in subparagraph (D) (as so redes-*
2 *ignated), by striking "(A), (B), (C), and*
3 *(D)" and inserting "(A), (B), and (C)"; and*
4 *(iv) by adding at the end the following*
5 *new subparagraphs:*
6 *"(E) The Secretary shall maintain a centralized file,*
7 *which shall be updated periodically and which shall be in a*
8 *form which will be readily retrievable by each servicing office*
9 *of the Social Security Administration, of—*
10 *"(i) the address and the social security account*
11 *number (or employer identification number) of each*
12 *representative payee who is receiving benefit payments*
13 *pursuant to this subsection or section 1631(a)(2), and*
14 *"(ii) the address and social security account*
15 *number of each individual for whom each representa-*
16 *tive payee is reported to be providing services as repre-*
17 *sentative payee pursuant to this subsection or section*
18 *1631(a)(2).*
19 *"(F) Each servicing office of the Administration shall*
20 *maintain a list, which shall be updated periodically, of public*
21 *agencies and community-based nonprofit social service agen-*
22 *cies which are qualified to serve as representative payees pur-*
23 *suant to this subsection or section 1631(a)(2) and which are*
24 *located in the area served by such servicing office.".*

1 *(B) EFFECTIVE DATE.—The amendments*
2 *made by subparagraph (A) shall take effect Octo-*
3 *ber 1, 1992, and the Secretary of Health and*
4 *Human Services shall take such actions as are*
5 *necessary to ensure that the requirements of sec-*
6 *tion 205(j)(3)(E) of the Social Security Act (as*
7 *amended by subparagraph (A) of this paragraph)*
8 *are satisfied as of such date.*
9 *(2) STUDY RELATING TO MORE STRINGENT*
10 *OVERSIGHT OF HIGH-RISK REPRESENTATIVE*
11 *PAYEES.—*
12 *(A) IN GENERAL.—As soon as practicable*
13 *after the date of the enactment of this Act, the*
14 *Secretary of Health and Human Services shall*
15 *conduct a study of the need for a more stringent*
16 *accounting system for high-risk representative*
17 *payees than is otherwise generally provided under*
18 *section 205(j)(3) or 1631(a)(2)(C) of the Social*
19 *Security Act, which would include such addition-*
20 *al reporting requirements, record maintenance re-*
21 *quirements, and other measures as the Secretary*
22 *considers necessary to determine whether services*
23 *are being appropriately provided by such payees*
24 *in accordance with such sections 205(j) and*
25 *1631(a)(2).*

1 *(B) SPECIAL PROCEDURES.—In such*
2 *study, the Secretary shall determine the appropri-*
3 *ate means of implementing more stringent, statis-*
4 *tically valid procedures for—*
5 *(i) reviewing reports which would be*
6 *submitted to the Secretary under any system*
7 *described in subparagraph (A), and*
8 *(ii) periodic, random audits of records*
9 *which would be kept under such a system,*
10 *in order to identify any instances in which high-*
11 *risk representative payees are misusing payments*
12 *made pursuant to section 205(j) or 1631(a)(2) of*
13 *the Social Security Act.*
14 *(C) HIGH-RISK REPRESENTATIVE*
15 *PAYEE.—For purposes of this paragraph, the*
16 *term "high-risk representative payee" means a*
17 *representative payee under section 205(j) or*
18 *1631(a)(2) of the Social Security Act (other than*
19 *a Federal or State institution) who—*
20 *(i) regularly provides concurrent serv-*
21 *ices as a representative payee under such*
22 *section 205(j), such section 1631(a)(2), or*
23 *both such sections, for 5 or more individuals*
24 *who are unrelated to such representative*
25 *payee,*

1 *(ii) is neither related to an individual*
2 *on whose behalf the payee is being paid bene-*
3 *fits nor living in the same household with*
4 *such individual,*
5 *(iii) is a creditor of such individual, or*
6 *(iv) is in such other category of payees*
7 *as the Secretary may determine appropriate.*
8 *(D) REPORT.—The Secretary shall report to*
9 *the Committee on Ways and Means of the House*
10 *of Representatives and the Committee on Finance*
11 *of the Senate the results of the study, together*
12 *with any recommendations, not later than July 1,*
13 *1991. Such report shall include an evaluation of*
14 *the feasibility and desirability of legislation im-*
15 *plementing stricter accounting and review proce-*
16 *dures for high-risk representative payees in all*
17 *servicing offices of the Social Security Adminis-*
18 *tration (together with proposed legislative lan-*
19 *guage).*
20 *(3) DEMONSTRATION PROJECTS RELATING TO*
21 *PROVISION OF INFORMATION TO LOCAL AGENCIES*
22 *PROVIDING CHILD AND ADULT PROTECTIVE SERV-*
23 *ICES.—*
24 *(A) IN GENERAL.—As soon as practicable*
25 *after the date of the enactment of this Act, the*

1 *Secretary of Health and Human Services shall*
2 *implement a demonstration project under this*
3 *paragraph in each of not fewer than 2 States.*
4 *Under each such project, the Secretary shall enter*
5 *into an agreement with the State in which the*
6 *project is located to make readily available, for*
7 *the duration of the project, to the appropriate*
8 *State agency, a listing of addresses of multiple*
9 *benefit recipients.*
10 *(B) LISTING OF ADDRESSES OF MULTIPLE*
11 *BENEFIT RECIPIENTS.—The list referred to in*
12 *subparagraph (A) shall consist of a current list*
13 *setting forth each address within the State at*
14 *which benefits under title II, benefits under title*
15 *XVI, or any combination of such benefits are*
16 *being received by 5 or more individuals. For pur-*
17 *poses of this subparagraph, in the case of benefits*
18 *under title II, all individuals receiving benefits*
19 *on the basis of the wages and self-employment*
20 *income of the same individual shall be counted as*
21 *1 individual.*
22 *(C) APPROPRIATE STATE AGENCY.—The*
23 *appropriate State agency referred to in subpara-*
24 *graph (A) is the agency of the State which the*
25 *Secretary determines is primarily responsible for*

1 *regulating care facilities operated in such State or*
2 *providing for child and adult protective services in*
3 *such State.*
4 *(D) REPORT.—The Secretary shall report to*
5 *the Committee on Ways and Means of the House*
6 *of Representatives and the Committee on Finance*
7 *of the Senate concerning such demonstration*
8 *projects, together with any recommendations, not*
9 *later than July 1, 1992. Such report shall include*
10 *an evaluation of the feasibility and desirability of*
11 *legislation implementing the programs established*
12 *pursuant to this paragraph on a permanent basis.*
13 *(E) STATE.—For purposes of this para-*
14 *graph, the term "State" means a State, including*
15 *the entities included in such term by section*
16 *210(h) of the Social Security Act (42 U.S.C.*
17 *410(h)).*
18 *(c) RESTITUTION.—*
19 *(1) TITLE II.—Section 205(j) of such Act (42*
20 *U.S.C. 405(j)) is amended by redesignating paragraph*
21 *(5) (as so redesignated by subsection (a)(3)(A)(i) of*
22 *this section) as paragraph (6) and by inserting after*
23 *paragraph (4) (as added by subsection (a)(3)(A)(i)) the*
24 *following new paragraph:*

1 *"(5) In cases where the negligent failure of the Secre-*
2 *tary to investigate or monitor a representative payee results*
3 *in misuse of benefits by the representative payee, the Secre-*
4 *tary shall certify for payment to the beneficiary or the benefi-*
5 *ciary's alternative representative payee an amount equal to*
6 *such misused benefits. The Secretary shall make a good faith*
7 *effort to obtain restitution from the terminated representative*
8 *payee.".*

9 *(2) TITLE XVI.—Section 1631(a)(2) of such Act*
10 *(42 U.S.C. 1383(a)(2)) is amended by redesignating*
11 *subparagraph (E) (as so redesignated by subsection*
12 *(a)(3)(A)(ii)(I) of this section) as subparagraph (F)*
13 *and by inserting after subparagraph (D) (as added by*
14 *subsection (a)(3)(A)(i)(III)) the following new sub-*
15 *paragraph:*

16 *"(E) RESTITUTION.—In cases where the negli-*
17 *gent failure of the Secretary to investigate or monitor a*
18 *representative payee results in misuse of benefits by*
19 *the representative payee, the Secretary shall make pay-*
20 *ment to the beneficiary or the beneficiary's representa-*
21 *tive payee of an amount equal to such misused bene-*
22 *fits. The Secretary shall make a good faith effort to*
23 *obtain restitution from the terminated representative*
24 *payee.".*

25 *(d) REPORTS TO THE CONGRESS.—*

1 *(1) IN GENERAL.—*

2 *(A) TITLE II.—Section 205(j)(6) of the*
3 *Social Security Act (as so redesignated by sub-*
4 *section (c) of this section) is amended to read as*
5 *follows:*

6 *"(6) The Secretary shall include as a part of the annual*
7 *report required under section 704 information with respect to*
8 *the implementation of the preceding provisions of this subsec-*
9 *tion, including the number of cases in which the representa-*
10 *tive payee was changed, the number of cases discovered where*
11 *there has been a misuse of funds, how any such cases were*
12 *dealt with by the Secretary, the final disposition of such*
13 *cases, including any criminal penalties imposed, and such*
14 *other information as the Secretary determines to be appropri-*
15 *ate.".*

16 *(B) TITLE XVI.—Section 1631(a)(2)(F) of*
17 *the Social Security Act, as so redesignated by*
18 *subsection (a)(3)(A)(ii)(I) of this section, is*
19 *amended to read as follows:*

20 *"(F) INFORMATION REQUIRED TO BE INCLUD-*
21 *ED IN SECTION 70; REPORT.—The Secretary shall in-*
22 *clude as a part of the annual report required under*
23 *section 704 information with respect to the implemen-*
24 *tation of the preceding provisions of this paragraph, in-*
25 *cluding—*

1 *"(i) the number of cases in which the repre-*
2 *sentative payee was changed;*
3 *"(ii) the number of cases discovered where*
4 *there has been a misuse of funds;*
5 *"(iii) how any such cases were dealt with by*
6 *the Secretary;*
7 *"(iv) the final disposition of such cases (in-*
8 *cluding any criminal penalties imposed); and*
9 *"(v) such other information as the Secretary*
10 *determines to be appropriate.".*
11 *(2) EFFECTIVE DATE.—The amendments made*
12 *by paragraph (1) shall apply with respect to annual re-*
13 *ports issued for years after 1990.*
14 *(3) FEASIBILITY STUDY REGARDING INVOLVE-*
15 *MENT OF DEPARTMENT OF VETERANS AFFAIRS.—As*
16 *soon as practicable after the date of the enactment of*
17 *this Act, Secretary of Health and Human Services, in*
18 *cooperation with the Secretary of Veterans Affairs,*
19 *shall conduct a study of the feasibility of legislation*
20 *designating the Department of Veterans Affairs as the*
21 *lead agency for purposes of selecting, appointing, and*
22 *monitoring representative payees for those individuals*
23 *who receive benefits paid under title II or XVI of the*
24 *Social Security Act and benefits paid by the Depart-*
25 *ment of Veterans Affairs. Not later than 180 days*

1 *after the date of the enactment of this Act, the Secre-*
2 *tary of Health and Human Services shall transmit to*
3 *the Committee on Ways and Means of the House of*
4 *Representatives and the Committee on Finance of the*
5 *Senate a report setting forth the results of such study,*
6 *together with any recommendations.*

7 ***SEC. 2006. FEES FOR REPRESENTATION OF CLAIMANTS IN AD-***
8 ***MINISTRATIVE PROCEEDINGS.***

9 *(a) IN GENERAL.—*
10 *(1) TITLE II.—Subsection (a) of section 206 of*
11 *the Social Security Act (42 U.S.C. 406(a)) is amend-*
12 *ed—*
13 *(A) by inserting "(1)" after "(a)";*
14 *(B) in the fourth sentence, by striking*
15 *"charged" and inserting "recovered"; and*
16 *(C) by striking the fifth sentence and all that*
17 *follows through "Any person who" in the seventh*
18 *sentence and inserting the following:*
19 *"(2)(A) In the case of a claim of entitlement to past-due*
20 *benefits under this title, if—*
21 *"(i) an agreement between the claimant and an-*
22 *other person regarding any fee to be recovered by such*
23 *person to compensate such person for services with re-*
24 *spect to the claim is presented in writing to the Secre-*

1 *tary prior to the time of the Secretary's determination*
2 *regarding the claim,*
3 *"(ii) the fee specified in the agreement does not*
4 *exceed the lesser of—*
5 *"(I) 25 percent of the total amount of such*
6 *past-due benefits (as determined before any appli-*
7 *cable reduction under section 1127(a)), or*
8 *"(II) $4,000, and*
9 *"(iii) the determination is favorable to the claim-*
10 *ant,*
11 *then the Secretary shall approve that agreement at the time of*
12 *the favorable determination, and (subject to paragraph (3))*
13 *the fee specified in the agreement shall be the maximum fee.*
14 *The Secretary may from time to time increase the dollar*
15 *amount under clause (ii)(II) to the extent that the rate of*
16 *increase in such amount, as determined over the period since*
17 *January 1, 1991, does not at any time exceed the rate of*
18 *increase in primary insurance amounts under section 215(i)*
19 *since such date. The Secretary shall publish any such in-*
20 *creased amount in the Federal Register.*
21 *"(B) For purposes of this subsection, the term 'past-due*
22 *benefits' excludes any benefits with respect to which payment*
23 *has been continued pursuant to section 223(g).*
24 *"(C) In the case of a claim with respect to which the*
25 *Secretary has approved an agreement pursuant to subpara-*

1 *graph (A), the Secretary shall provide the claimant and the*
2 *person representing the claimant a written notice of—*
3 *"(i) the dollar amount of the past-due benefits (as*
4 *determined before any applicable reduction under sec-*
5 *tion 1127(a)) and the dollar amount of the past-due*
6 *benefits payable to the claimant,*
7 *"(ii) the dollar amount of the maximum fee which*
8 *may be charged or recovered as determined under this*
9 *paragraph, and*
10 *"(iii) a description of the procedures for review*
11 *under paragraph (3).*
12 *"(3)(A) The Secretary shall provide by regulation for*
13 *review of the amount which would otherwise be the maximum*
14 *fee as determined under paragraph (2) if, within 15 days*
15 *after receipt of the notice provided pursuant to paragraph*
16 *(2)(C)—*
17 *"(i) the claimant, or the administrative law judge*
18 *or other adjudicator who made the favorable determina-*
19 *tion, submits a written request to the Secretary to*
20 *reduce the maximum fee, or*
21 *"(ii) the person representing the claimant submits*
22 *a written request to the Secretary to increase the maxi-*
23 *mum fee.*
24 *Any such review shall be conducted after providing the claim-*
25 *ant, the person representing the claimant, and the adjudicator*

1 *with reasonable notice of such request and an opportunity to*
2 *submit written information in favor of or in opposition to*
3 *such request. The adjudicator may request the Secretary to*
4 *reduce the maximum fee only on the basis of evidence of the*
5 *failure of the person representing the claimant to represent*
6 *adequately the claimant's interest or on the basis of evidence*
7 *that the fee is clearly excessive for services rendered.*
8 *"(B)(i) In the case of a request for review under sub-*
9 *paragraph (A) by the claimant or by the person representing*
10 *the claimant, such review shall be conducted by the adminis-*
11 *trative law judge who made the favorable determination or, if*
12 *the Secretary determines that such administrative law judge*
13 *is unavailable or if the determination was not made by an*
14 *administrative law judge, such review shall be conducted by*
15 *another person designated by the Secretary for such purpose.*
16 *"(ii) In the case of a request by the adjudicator for*
17 *review under subparagraph (A), the review shall be conducted*
18 *by the Secretary or by an administrative law judge or other*
19 *person (other than such adjudicator) who is designated by the*
20 *Secretary.*
21 *"(C) Upon completion of the review, the administrative*
22 *law judge or other person conducting the review shall affirm*
23 *or modify the amount which would otherwise be the maxi-*
24 *mum fee. Any such amount so affirmed or modified shall be*
25 *considered the amount of the maximum fee which may be*

1 *recovered under paragraph (2). The decision of the adminis-*
2 *trative law judge or other person conducting the review shall*
3 *not be subject to further review.*
4 *"(4)(A) Subject to subparagraph (B), if the claimant is*
5 *determined to be entitled to past-due benefits under this title*
6 *and the person representing the claimant is an attorney, the*
7 *Secretary shall, notwithstanding section 205(i), certify for*
8 *payment out of such past-due benefits (as determined before*
9 *any applicable reduction under section 1127(a)) to such at-*
10 *torney an amount equal to the maximum fee, but not in*
11 *excess of 25 percent of such past-due benefits (as determined*
12 *before any applicable reduction under section 1127(a)).*
13 *"(B) The Secretary shall not in any case certify any*
14 *amount for payment to the attorney pursuant to this para-*
15 *graph before the expiration of the 15-day period referred to in*
16 *paragraph (3)(A) or, in the case of any review conducted*
17 *under paragraph (3), before the completion of such review.*
18 *"(5) Any person who".*
19 *(2) TITLE XVI.—Paragraph (2)(A) of section*
20 *1631(d) of the Social Security Act (42 U.S.C.*
21 *1383(d)(2)(A)) is amended to read as follows:*
22 *"(2)(A) The provisions of section 206(a) (other than*
23 *paragraphs (2)(B) and (4) thereof) shall apply to this part to*
24 *the same extent as they apply in the case of title II, and in so*

1 *applying such provisions 'section 1631(g)' shall be substitut-*
2 *ed for 'section 1127(a)'.".*
3 *(b) PROTECTION OF ATTORNEY'S FEES FROM OFF-*
4 *SETTING SSI BENEFITS.—Subsection (a) of section 1127*
5 *of such Act is amended by adding at the end the following*
6 *new sentence: "A benefit under title II shall not be reduced*
7 *pursuant to the preceding sentence to the extent that any*
8 *amount of such benefit would not otherwise be available for*
9 *payment in full of the maximum fee which may be recovered*
10 *from such benefit by an attorney pursuant to section*
11 *206(a)(4).".*
12 *(c) LIMITATION OF TRAVEL EXPENSES FOR REPRE-*
13 *SENTATION OF CLAIMANTS AT ADMINISTRATIVE PRO-*
14 *CEEDINGS.—Section 201(j) (42 U.S.C. 401(j)), section*
15 *1631(h) (42 U.S.C. 1383(h)), and section 1817(i) (42*
16 *U.S.C. 1395i(i)) of such Act are each amended by adding at*
17 *the end the following new sentence: "The amount available*
18 *for payment under this subsection for travel by a representa-*
19 *tive to attend an administrative proceeding before an admin-*
20 *istrative law judge or other adjudicator shall not exceed the*
21 *maximum amount allowable under this subsection for such*
22 *travel originating within the geographic area of the office*
23 *having jurisdiction over such proceeding.".*
24 *(d) EFFECTIVE DATE.—The amendments made by this*
25 *section shall apply with respect to determinations made on or*

1 *after January 1, 1991, and to reimbursement for travel ex-*
2 *penses incurred on or after January 1, 1991.*
3 ***SEC. 2007. NOTICE REQUIREMENTS.***
4 *(a) REQUIREMENTS.—*
5 *(1) TITLE II.—Section 205 of the Social Securi-*
6 *ty Act (42 U.S.C. 405) is amended by inserting after*
7 *subsection (r) the following new subsection:*
8 *"NOTICE REQUIREMENTS*
9 *"(s) The Secretary shall take such actions as are neces-*
10 *sary to ensure that any notice to one or more individuals*
11 *issued pursuant to this title by the Secretary or by a State*
12 *agency—*
13 *"(1) is written in simple and clear language, and*
14 *"(2) includes the address and telephone number of*
15 *the local office of the Social Security Administration*
16 *which serves the recipient.*
17 *In the case of any such notice which is not generated by a*
18 *local servicing office, the requirements of paragraph (2) shall*
19 *be treated as satisfied if such notice includes the address of*
20 *the local office of the Social Security Administration which*
21 *services the recipient of the notice and a telephone number*
22 *through which such office can be reached.".*
23 *(2) TITLE XVI.—Section 1631 of such Act (42*
24 *U.S.C. 1383) is amended by adding at the end the fol-*
25 *lowing:*

1 "*NOTICE REQUIREMENTS*

2 *"(n) The Secretary shall take such actions as are neces-*
3 *sary to ensure that any notice to one or more individuals*
4 *issued pursuant to this title by the Secretary or by a State*
5 *agency—*
6 *"(1) is written in simple and clear language, and*
7 *"(2) includes the address and telephone number of*
8 *the local office of the Social Security Administration*
9 *which serves the recipient.*
10 *In the case of any such notice which is not generated by a*
11 *local servicing office, the requirements of paragraph (2) shall*
12 *be treated as satisfied if such notice includes the address of*
13 *the local office of the Social Security Administration which*
14 *services the recipient of the notice and a telephone number*
15 *through which such office can be reached.".*
16 *(b) EFFECTIVE DATE.—The amendments made by this*
17 *section shall apply with respect to notices issued on or after*
18 *January 1, 1991.*
19 ***SEC. 2008. APPLICABILITY OF ADMINISTRATIVE RES JUDICATA;***
20 ***RELATED NOTICE REQUIREMENTS.***
21 *(a) IN GENERAL.—*
22 *(1) TITLE II.—Section 205(b) of the Social Se-*
23 *curity Act (42 U.S.C 405(b)) is amended by adding at*
24 *the end the following new paragraph:*

1 *"(3)(A) A failure to timely request review of an*
2 *initial adverse determination with respect to an appli-*
3 *cation for any benefit under this title or an adverse de-*
4 *termination on reconsideration of such an initial deter-*
5 *mination shall not serve as a basis for denial of a sub-*
6 *sequent application for any benefit under this title if*
7 *the applicant demonstrates that the applicant, or any*
8 *other individual referred to in paragraph (1), failed to*
9 *so request such a review acting in good faith reliance*
10 *upon incorrect, incomplete, or misleading information,*
11 *relating to the consequences of reapplying for benefits*
12 *in lieu of seeking review of an adverse determination,*
13 *provided by any officer or employee of the Social Se-*
14 *curity Administration or any State agency acting*
15 *under section 221.*
16 *"(B) In any notice of an adverse determination*
17 *with respect to which a review may be requested under*
18 *paragraph (1), the Secretary shall describe in clear*
19 *and specific language the effect on possible entitlement*
20 *to benefits under this title of choosing to reapply in*
21 *lieu of requesting review of the determination.".*
22 *(2) TITLE XVI.—Section 1631(c)(1) of such Act*
23 *(42 U.S.C 1383(c)(1)) is amended—*
24 *(A) by inserting "(A)" after "(c)(1)"; and*
25 *(B) by adding at the end the following:*

1 *"(B)(A) A failure to timely request review of an initial*
2 *adverse determination with respect to an application for any*
3 *payment under this title or an adverse determination on re-*
4 *consideration of such an initial determination shall not serve*
5 *as a basis for denial of a subsequent application for any pay-*
6 *ment under this title if the applicant demonstrates that the*
7 *applicant, or any other individual referred to in paragraph*
8 *(1), failed to so request such a review acting in good faith*
9 *reliance upon incorrect, incomplete, or misleading informa-*
10 *tion, relating to the consequences of reapplying for payments*
11 *in lieu of seeking review of an adverse determination, provid-*
12 *ed by any officer or employee of the Social Security Admin-*
13 *istration.*

14 *"(B) In any notice of an adverse determination*
15 *with respect to which a review may be requested under*
16 *paragraph (1), the Secretary shall describe in clear*
17 *and specific language the effect on possible entitlement*
18 *to payments under this title of choosing to reapply in*
19 *lieu of requesting review of the determination.".*

20 *(b) EFFECTIVE DATE.—The amendments made by this*
21 *section shall apply with respect to adverse determinations*
22 *made on or after January 1, 1991.*

1 *SEC. 2009. TELEPHONE ACCESS TO THE SOCIAL SECURITY AD-*
2 *MINISTRATION*
3 *(a) REQUIRED MINIMUM LEVEL OF ACCESS TO*
4 *LOCAL OFFICES.—In addition to such other access by tele-*
5 *phone to offices of the Social Security Administration as the*
6 *Secretary of Health and Human Services may consider ap-*
7 *propriate, the Secretary shall maintain access by telephone to*
8 *local offices of the Social Security Administration at the*
9 *level of access generally available as of September 30, 1989.*
10 *(b) TELEPHONE LISTINGS.—The Secretary shall*
11 *make such requests of local telephone utilities in the United*
12 *States as are necessary to ensure that the listings subsequent-*
13 *ly maintained and published by such utilities for each locali-*
14 *ty include the address and telephone number for each local*
15 *office of the Social Security Administration to which direct*
16 *telephone access is reestablished under subsection (a) in such*
17 *locality. With respect to any toll-free number maintained by*
18 *the Social Security Administration, the required listing shall*
19 *include the following statement: "For general information,*
20 *call———", followed by the toll-free number.*
21 *(c) REPORT BY SECRETARY.—Not later than January*
22 *1, 1993, the Secretary shall submit to the Committee on*
23 *Ways and Means of the House of Representatives and the*
24 *Committee on Finance of the Senate a report which—*
25 *(1) assesses the impact of the requirements estab-*
26 *lished by this section on the Social Security Adminis-*

1 *tration's allocation of resources, workload levels, and*
2 *service to the public, and*
3 *(2) presents a plan for using new, innovative*
4 *technologies to enhance access to the local offices of the*
5 *Social Security Administration.*
6 *The plan described in paragraph (2) shall be directed at*
7 *maintaining access by telephone to the offices of the Social*
8 *Security Administration at a level which is at least as high*
9 *as the level required under subsection (a).*
10 *(d) GAO REPORT.—The Comptroller General of the*
11 *United States shall review the level of telephone access by the*
12 *public to the local offices of the Social Security Administra-*
13 *tion. The Comptroller General shall file an interim report*
14 *with the Committee on Ways and Means of the House of*
15 *Representatives and the Committee on Finance of the Senate*
16 *describing such level of telephone access not later than 120*
17 *days after the date of the enactment of this Act and shall file*
18 *a final report with such Committees describing such level of*
19 *access not later than 210 days after such date.*
20 *(e) EFFECTIVE DATE.—The Secretary of Health and*
21 *Human Services shall meet the requirements of subsections*
22 *(a) and (b) as soon as possible after the date of the enactment*
23 *of this Act but not later than 180 days after such date.*

1 *SEC. 2010. VOCATIONAL REHABILITATION DEMONSTRATION*
2 *PROJECTS.*
3 *(a) DEMONSTRATION PROJECT.—*
4 *(1) IN GENERAL.—Pursuant to section 505 of the*
5 *Social Security Disability Amendments of 1980, the*
6 *Secretary of Health and Human Services shall develop*
7 *and carry out under this section demonstration projects*
8 *in each of not fewer than three States. Each such dem-*
9 *onstration project shall be designed to assess the advan-*
10 *tages and disadvantages of permitting disabled benefi-*
11 *ciaries (as defined in paragraph (3)) to select, from*
12 *among both public and private qualified vocational re-*
13 *habilitation providers, providers of vocational rehabili-*
14 *tation services directed at enabling such beneficiaries to*
15 *engage in substantial gainful activity. Each such dem-*
16 *onstration project shall commence as soon as practica-*
17 *ble after the date of the enactment of this Act and shall*
18 *remain in operation until the end of fiscal year 1993.*
19 *(2) SCOPE AND PARTICIPATION.—Each demon-*
20 *stration project shall be of sufficient scope and open to*
21 *sufficient participation by disabled beneficiaries so as*
22 *to permit meaningful determinations under subsection*
23 *(b).*
24 *(3) DISABLED BENEFICIARY.—For purposes of*
25 *this section, the term "disabled beneficiary" means an*
26 *individual who is entitled to disability insurance bene-*

1 *fits under section 223 of the Social Security Act or*
2 *benefits under section 202 of such Act based on such*
3 *individual's own disability.*

4 *(b) MATTERS TO BE DETERMINED.—In the course of*
5 *each demonstration project conducted under this section, the*
6 *Secretary shall determine the following:*

7 *(1) the extent to which disabled beneficiaries par-*
8 *ticipate in the process of selecting providers of rehabili-*
9 *tation services, and their reasons for participating or*
10 *not participating;*

11 *(2) notable characteristics of participating dis-*
12 *abled beneficiaries (including their impairments), clas-*
13 *sified by the type of provider selected;*

14 *(3) the various needs for rehabilitation demon-*
15 *strated by participating disabled beneficiaries, classi-*
16 *fied by the type of provider selected;*

17 *(4) the extent to which providers of rehabilitation*
18 *services which are not agencies or instrumentalities of*
19 *States accept referrals of disabled beneficiaries under*
20 *procedures in effect under section 222(d) of the Social*
21 *Security Act as of the date of the enactment of this Act*
22 *relating to reimbursement for such services and the*
23 *most effective way of reimbursing such providers in ac-*
24 *cordance with such provisions;*

1 *(5) the extent to which providers participating in*
2 *the demonstration projects enter into contracts with*
3 *third parties for services and the types of such services;*
4 *(6) whether, and if so the extent to which, dis-*
5 *abled beneficiaries who select their own providers of re-*
6 *habilitation services are more likely to engage in sub-*
7 *stantial gainful activity and thereby terminate their*
8 *entitlement under section 202 or 223 of the Social Se-*
9 *curity Act than those who do not;*
10 *(7) the cost effectiveness of permitting disabled*
11 *beneficiaries to select their providers of vocational reha-*
12 *bilitation services, and the comparative cost effective-*
13 *ness of different types of providers; and*
14 *(8) the feasibility of establishing a permanent na-*
15 *tional program for allowing disabled beneficiaries to*
16 *choose their own qualified vocational rehabilitation pro-*
17 *vider and any additional safeguards which would be*
18 *necessary to assure the effectiveness of such a program.*
19 *(c) PROCEDURAL REQUIREMENTS.—*
20 *(1) SELECTION OF PARTICIPANTS.—The Secre-*
21 *tary shall select for participation in each demonstration*
22 *project under this section disabled beneficiaries for*
23 *whom there is a reasonable likelihood that rehabilita-*
24 *tion services provided to them will result in perform-*
25 *ance by them of substantial gainful activity for a con-*

1 *tinuous period of nine months prior to termination of*
2 *the project.*
3 *(2) SELECTION OF PROVIDERS OF REHABILITA-*
4 *TION SERVICES.—The Secretary shall select qualified*
5 *rehabilitation agencies to serve as providers of rehabili-*
6 *tation services in the geographic area covered by each*
7 *demonstration project conducted under this section. The*
8 *Secretary shall make such selection after consultation*
9 *with disabled individuals and organizations represent-*
10 *ing such individuals. With respect to each demonstra-*
11 *tion project, the Secretary may approve on a case-by-*
12 *case basis additional qualified rehabilitation agencies*
13 *from outside the geographic area covered by the project*
14 *to serve particular disabled beneficiaries.*
15 *(3) REIMBURSEMENT OF PROVIDERS.—*
16 *(A) Except as provided in subparagraph (B),*
17 *providers of rehabilitation services under each*
18 *demonstration project under this section shall be*
19 *reimbursed in accordance with the procedures in*
20 *effect under the provisions of section 222(d) of the*
21 *Social Security Act as of the date of the enact-*
22 *ment of this Act relating to reimbursement for*
23 *services provided under such section.*
24 *(B) The Secretary may contract with provid-*
25 *ers of rehabilitation services under each demon-*

1 *stration project under this section on a fee-for-*
2 *service basis in order to—*
3 *(i) conduct vocational evaluations di-*
4 *rected at identifying those disabled benefici-*
5 *aries who have reasonable potential for en-*
6 *gaging in substantial gainful activity and*
7 *thereby terminating their entitlement to bene-*
8 *fits under section 202 or 223 of the Social*
9 *Security Act if provided with vocational re-*
10 *habilitation services as participants in the*
11 *project, and*
12 *(ii) develop jointly with each disabled*
13 *beneficiary so identified an individualized,*
14 *written rehabilitation program.*
15 *(C) Each written rehabilitation program de-*
16 *veloped pursuant to subparagraph (B)(ii) for any*
17 *participant shall include among its provisions—*
18 *(i) a statement of the participant's reha-*
19 *bilitation goal,*
20 *(ii) a statement of the specific rehabili-*
21 *tation services to be provided and of the iden-*
22 *tity of the provider to furnish such services,*
23 *(iii) the projected date for the initiation*
24 *of such services and their anticipated dura-*
25 *tion, and*

1 *(iv) objective criteria and an evaluation*
2 *procedure and schedule for determining*
3 *whether the stated rehabilitation goal is being*
4 *achieved.*

5 *(d) REPORTS.—The Secretary of Health and Human*
6 *Services shall submit to the Committee on Ways and Means*
7 *of the House of Representatives and the Committee on Fi-*
8 *nance of the Senate an interim written report on the progress*
9 *of the demonstration projects conducted under this section not*
10 *later than April 1, 1992, together with any related data and*
11 *materials which the Secretary considers appropriate. The*
12 *Secretary shall submit a final written report to such Com-*
13 *mittees addressing the matters to be determined under subsec-*
14 *tion (b) not later than April 1, 1994.*

15 *(e) STATE.—For purposes of this section, the term*
16 *"State" means a State, including the entities included in*
17 *such term by section 210(h) of the Social Security Act (42*
18 *U.S.C. 410(h)).*

19 *(f) CONTINUATION OF DEMONSTRATION AUTHOR-*
20 *ITY.—Section 505(c) of the Social Security Disability*
21 *Amendments of 1980 (42 U.S.C. 1310 note) is amended to*
22 *read as follows:*

23 *"(c) The Secretary shall submit to the Congress a final*
24 *report with respect to all experiments and demonstration*
25 *projects carried out under this section (other than demonstra-*

1 *tion projects conducted under section 2010 of the Technical*
2 *and Miscellaneous Social Security Act Amendments of*
3 *1990) no later than October 1, 1993.".*

4 *(g) NEW SPENDING AUTHORITY.—Any new spending*
5 *authority provided by this section shall be effective for any*
6 *fiscal year only to such extent or in such amounts as are*
7 *provided in advance in appropriation Acts.*

8 ***SEC. 2011. EXEMPTION FOR CERTAIN ALIENS, RECEIVING AM-***
9 ***NESTY UNDER THE IMMIGRATION AND NATION-***
10 ***ALITY ACT, FROM PROSECUTION FOR MISRE-***
11 ***PORTING OF EARNINGS OR MISUSE OF SOCIAL***
12 ***SECURITY ACCOUNT NUMBERS OR SOCIAL SECU-***
13 ***RITY CARDS.***

14 *(a) IN GENERAL.—Section 208 of the Social Security*
15 *Act (42 U.S.C. 408) is amended by adding at the end the*
16 *following:*

17 *"(d)(1) Except as provided in paragraph (2), an*
18 *alien—*

19 *"(A) whose status is adjusted to that of lawful*
20 *temporary resident under section 210 or 245A of the*
21 *Immigration and Nationality Act or under section 902*
22 *of the Foreign Relations Authorization Act, Fiscal*
23 *Years 1988 and 1989,*

24 *"(B) whose status is adjusted to that of perma-*
25 *nent resident—*

1 *"(i) under section 202 of the Immigration*
2 *Reform and Control Act of 1986, or*
3 *"(ii) pursuant to section 249 of the Immi-*
4 *gration and Nationality Act, or*
5 *"(C) who is granted special immigrant status*
6 *under section 101(a)(27)(I) of the Immigration and*
7 *Nationality Act,*
8 *shall not be subject to prosecution for any alleged conduct*
9 *described in paragraph (6) or (7) of subsection (a) if such*
10 *conduct is alleged to have occurred prior to 60 days after the*
11 *date of the enactment of the Technical and Miscellaneous*
12 *Social Security Act Amendments of 1990.*
13 *"(2) Paragraph (1) shall not apply with respect to con-*
14 *duct (described in subsection (a)(7)(C)) consisting of—*
15 *"(A) selling a card that is, or purports to be, a*
16 *social security card issued by the Secretary,*
17 *"(B) possessing a social security card with intent*
18 *to sell it, or*
19 *"(C) counterfeiting a social security card with*
20 *intent to sell it.".*
21 *(b) TECHNICAL AND CONFORMING AMENDMENTS.—*
22 *So much of section 208 of such Act as precedes subsection (d)*
23 *(as added by subsection (a) of this section) is amended—*

1 *(1) in subsection (a), by redesignating paragraphs*
2 *(1), (2), and (3) as subparagraphs (A), (B), and (C),*
3 *respectively;*
4 *(2) in subsection (g), by redesignating paragraphs*
5 *(1), (2), and (3) as subparagraphs (A), (B), and (C),*
6 *respectively;*
7 *(3) by redesignating subsections (a) through (h)*
8 *as paragraphs (1) through (8), respectively;*
9 *(4) by inserting "(a)" before "Whoever";*
10 *(5) by inserting "(b)" at the beginning of the*
11 *next-to-last undesignated paragraph; and*
12 *(6) by inserting "(c)" at the beginning of the last*
13 *undesignated paragraph.*
14 ***SEC. 2012. REDUCTION OF AMOUNT OF WAGES NEEDED TO***
15 ***EARN A YEAR OF COVERAGE APPLICABLE IN DE-***
16 ***TERMINING SPECIAL MINIMUM PRIMARY INSUR-***
17 ***ANCE AMOUNT.***
18 *(a) IN GENERAL.—Section 215(a)(1)(C)(ii) of the*
19 *Social Security Act (42 U.S.C. 415(a)(1)(C)(ii)) is amend-*
20 *ed by striking "of not less than 25 percent" the first place it*
21 *appears and all that follows through "1977) if" and inserting*
22 *"of not less than 25 percent (in the case of a year after 1950*
23 *and before 1978) of the maximum amount which (pursuant*
24 *to subsection (e)) may be counted for such year, or 25 percent*
25 *(in the case of a year after 1977 and before 1991) or 15*

1 *percent (in the case of a year after 1990) of the maximum*
2 *amount which (pursuant to subsection (e)) could be counted*
3 *for such year if".*

4 *(b) RETENTION OF CURRENT AMOUNT OF WAGES*
5 *NEEDED TO EARN A YEAR OF COVERAGE FOR PUR-*
6 *POSES OF WINDFALL ELIMINATION PROVISION.—Section*
7 *215(a)(7)(D) of such Act (42 U.S.C. 415(a)(7)(D)) is*
8 *amended—*

9 *(1) in the first sentence, by striking "(as defined*
10 *in paragraph (1)(C)(ii))"; and*

11 *(2) by adding at the end (after the table) the fol-*
12 *lowing new flush sentence:*

13 *"For purposes of this subparagraph, the term 'year of cover-*
14 *age' shall have the meaning provided in paragraph (1)(C)(ii),*
15 *except that the reference to '15 percent' therein shall be*
16 *deemed to be a reference to '25 percent'.".*

17 ***SEC. 2013. ELIMINATION OF ELIGIBILITY FOR RETROACTIVE***
18 ***BENEFITS FOR CERTAIN INDIVIDUALS ELIGIBLE***
19 ***FOR REDUCED BENEFITS.***

20 *(a) IN GENERAL.—Section 202(j)(4) of the Social Se-*
21 *curity Act (42 U.S.C. 402(j)(4)) is amended—*

22 *(1) in subparagraph (A), by striking "if the*
23 *effect" and all that follows and inserting "if the*
24 *amount of the monthly benefit to which such individual*
25 *would otherwise be entitled for any such month would*

1 *be subject to reduction pursuant to subsection (q).";*
2 *and*
3 *(2) in subparagraph (B), by striking clauses (i)*
4 *and (iv) and by redesignating clauses (ii), (iii), and*
5 *(v) as clauses (i), (ii), and (iii), respectively.*
6 *(b) EFFECTIVE DATE.—The amendments made by this*
7 *section shall apply with respect to applications for benefits*
8 *filed on or after January 1, 1991.*
9 ***SEC. 2014. CHARGING OF EARNINGS OF CORPORATE DIRECTORS.***
10 *(a) IN GENERAL.—*
11 *(1) Title II of the Social Security Act is amend-*
12 *ed by moving the last undesignated paragraph of sec-*
13 *tion 211(a) of such title (as added by section 9022(a)*
14 *of the Omnibus Budget Reconciliation Act of 1987) to*
15 *the end of section 203(f)(5) of such title.*
16 *(2) The undesignated paragraph moved to section*
17 *203(f)(5) of the Social Security Act by paragraph (1)*
18 *is amended—*
19 *(A) by striking "Any income of an individ-*
20 *ual which results from or is attributable to" and*
21 *inserting "(E) For purposes of this section, any*
22 *individual's net earnings from self-employment*
23 *which result from or are attributable to",*
24 *(B) by striking "the income is actually*
25 *paid" and inserting "the income, on which the*

1 *computation of such net earnings from self-em-*
2 *ployment is based, is actually paid"; and*
3 *(C) by striking "unless it was" and insert-*
4 *ing "unless such income was".*
5 *(3) The last undesignated paragraph of section*
6 *1402(a) of the Internal Revenue Code of 1986 (as*
7 *added by section 9022(b) of the Omnibus Budget Rec-*
8 *onciliation Act of 1987) is repealed.*
9 *(b) EFFECTIVE DATE.—The amendments made by this*
10 *section shall apply with respect to services performed in tax-*
11 *able years beginning after December 31, 1990.*
12 ***SEC. 2015. COLLECTION OF EMPLOYEE SOCIAL SECURITY AND***
13 ***RAILROAD RETIREMENT TAXES ON TAXABLE***
14 ***GROUP-TERM LIFE INSURANCE PROVIDED TO RE-***
15 ***TIREES.***
16 *(a) SOCIAL SECURITY TAXES.—Section 3102 of the*
17 *Internal Revenue Code of 1986 (relating to deduction of tax*
18 *from wages) is amended by adding at the end thereof the*
19 *following new subsection:*
20 *"(d) SPECIAL RULE FOR CERTAIN TAXABLE GROUP-*
21 *TERM LIFE INSURANCE BENEFITS.—*
22 *"(1) IN GENERAL.—In the case of any payment*
23 *for group-term life insurance to which this subsection*
24 *applies—*
25 *"(A) subsection (a) shall not apply,*

1 *"(B) the employer shall separately include*
2 *on the statement required under section 6051—*
3 *"(i) the portion of the wages which con-*
4 *sists of payments for group-term life insur-*
5 *ance to which this subsection applies, and*
6 *"(ii) the amount of the tax imposed by*
7 *section 3101 on such payments, and*
8 *"(C) the tax imposed by section 3101 on*
9 *such payments shall be paid by the employee.*
10 *"(2) BENEFITS TO WHICH SUBSECTION AP-*
11 *PLIES.—This subsection shall apply to any payment*
12 *for group-term life insurance to the extent—*
13 *"(A) such payment constitutes compensation,*
14 *and*
15 *"(B) such payment is for coverage for peri-*
16 *ods during which an employment relationship no*
17 *longer exists between the employee and the em-*
18 *ployer."*
19 *(b) RAILROAD RETIREMENT TAXES.—Section 3202*
20 *of such Code (relating to deduction of tax from compensation)*
21 *is amended by adding at the end thereof the following new*
22 *subsection:*
23 *"(d) SPECIAL RULE FOR CERTAIN TAXABLE GROUP-*
24 *TERM LIFE INSURANCE BENEFITS.—*

1 *"(1) In general.—In the case of any payment*
2 *for group-term life insurance to which this subsection*
3 *applies—*
4 *"(A) subsection (a) shall not apply,*
5 *"(B) the employer shall separately include*
6 *on the statement required under section 6051—*
7 *"(i) the portion of the compensation*
8 *which consists of payments for group-term*
9 *life insurance to which this subsection ap-*
10 *plies, and*
11 *"(ii) the amount of the tax imposed by*
12 *section 3201 on such payments, and*
13 *"(C) the tax imposed by section 3201 on*
14 *such payments shall be paid by the employee.*
15 *"(2) Benefits to which subsection ap-*
16 *plies.—This subsection shall apply to any payment*
17 *for group-term life insurance to the extent—*
18 *"(A) such payment constitutes compensation,*
19 *and*
20 *"(B) such payment is for coverage for peri-*
21 *ods during which an employment relationship no*
22 *longer exists between the employee and the em-*
23 *ployer."*

1 *(c) EFFECTIVE DATE.—The amendments made by this*
2 *section shall apply to coverage provided after December 31,*
3 *1990.*

4 ***SEC. 2016. CONSOLIDATION OF OLD METHODS OF COMPUTING***
5 ***PRIMARY INSURANCE AMOUNTS.***

6 *(a) CONSOLIDATION OF COMPUTATION METHODS.—*
7 *(1) IN GENERAL.—Section 215(a)(5) of the*
8 *Social Security Act (42 U.S.C. 415(a)(5)) is amend-*
9 *ed—*
10 *(A) by striking "For purposes of" and in-*
11 *serting "(A) Subject to subparagraphs (B), (C),*
12 *(D) and (E), for purposes of";*
13 *(B) by striking the last sentence; and*
14 *(C) by adding at the end the following new*
15 *subparagraphs:*
16 *"(B)(i) Subject to clauses (ii), (iii), and (iv), and not-*
17 *withstanding any other provision of law, the primary insur-*
18 *ance amount of any individual described in subparagraph*
19 *(C) shall be, in lieu of the primary insurance amount as*
20 *computed pursuant to any of the provisions referred to in*
21 *subparagraph (D), the primary insurance amount computed*
22 *under subsection (a) of section 215 as in effect in December*
23 *1978, without regard to subsection (b)(4) and (c) of such sec-*
24 *tion as so in effect.*

1 *"(ii) The computation of a primary insurance amount*
2 *under this subparagraph shall be subject to section 104(j)(2)*
3 *of the Social Security Amendments of 1972 (relating to the*
4 *number of elapsed years under section 215(b)).*
5 *"(iii) In computing a primary insurance amount under*
6 *this subparagraph, the dollar amount specified in paragraph*
7 *(3) of section 215(a) (as in effect in December 1978) shall be*
8 *increased to $11.50.*
9 *"(iv) In the case of an individual to whom section*
10 *215(d) applies, the primary insurance amount of such indi-*
11 *vidual shall be the greater of—*
12 *"(I) the primary insurance amount computed*
13 *under the preceding clauses of this subparagraph, or*
14 *"(II) the primary insurance amount computed*
15 *under section 215(d).*
16 *"(C) An individual is described in this subparagraph*
17 *if—*
18 *"(i) paragraph (1) does not apply to such individ-*
19 *ual by reason of such individual's eligibility for an*
20 *old-age or disability insurance benefit, or the individ-*
21 *ual's death, prior to 1979, and*
22 *"(ii) such individual's primary insurance amount*
23 *computed under this section as in effect immediately*
24 *before the date of the enactment of the Technical and*
25 *Miscellaneous Social Security Act Amendments of*

1 *1990 would have been computed under the provisions*
2 *described in subparagraph (D).*
3 *"(D) The provisions described in this subparagraph*
4 *are—*
5 *"(i) the provisions of this subsection as in effect*
6 *prior to the enactment of the Social Security Amend-*
7 *ments of 1965, if such provisions would preclude the*
8 *use of wages prior to 1951 in the computation of the*
9 *primary insurance amount,*
10 *"(ii) the provisions of section 209 as in effect*
11 *prior to the enactment of the Social Security Act*
12 *Amendments of 1950, and*
13 *"(iii) the provisions of section 215(d) as in effect*
14 *prior to the enactment of the Social Security Amend-*
15 *ments of 1977.*
16 *"(E) For purposes of this paragraph, the table for deter-*
17 *mining primary insurance amounts and maximum family*
18 *benefits contained in this section in December 1978 shall be*
19 *revised as provided by subsection (i) for each year after*
20 *1978.".*
21 *(2) COMPUTATION OF PRIMARY INSURANCE*
22 *BENEFIT UNDER 1939 ACT.—*
23 *(A) DIVISION OF WAGES BY ELAPSED*
24 *YEARS.—Section 215(d)(1) of such Act (42*
25 *U.S.C. 415(d)(1)) is amended—*

1 *(i) in subparagraph (A), by inserting*
2 *"and subject to section 104(j)(2) of the*
3 *Social Security Amendments of 1972" after*
4 *"thereof"; and*
5 *(ii) by striking "(B) For purposes" in*
6 *subparagraph (B) and all that follows*
7 *through clause (ii) of such subparagraph and*
8 *inserting the following:*
9 *"(B) For purposes of subparagraphs (B) and (C)*
10 *of subsection (b)(2) (as so in effect)—*
11 *"(i) the total wages prior to 1951 (as defined*
12 *in subparagraph (C) of this paragraph) of an in-*
13 *dividual—*
14 *"(I) shall, in the case of an individual*
15 *who attained age 21 prior to 1950, be divid-*
16 *ed by the number of years (hereinafter in*
17 *this subparagraph referred to as the 'divisor')*
18 *elapsing after the year in which the individ-*
19 *ual attained age 20, or 1936 if later, and*
20 *prior to the earlier of the year of death or*
21 *1951, except that such divisor shall not in-*
22 *clude any calendar year entirely included in*
23 *a period of disability, and in no case shall*
24 *the divisor be less than one, and*

1 *"(II) shall, in the case of an individual*
2 *who died before 1950 and before attaining*
3 *age 21, be divided by the number of years*
4 *(hereinafter in this subparagraph referred to*
5 *as the 'divisor') elapsing after the second*
6 *year prior to the year of death, or 1936 if*
7 *later, and prior to the year of death, and in*
8 *no case shall the divisor be less than one;*
9 *and*
10 *"(ii) the total wages prior to 1951 (as de-*
11 *fined in subparagraph (C) of this paragraph) of*
12 *an individual who either attained age 21 after*
13 *1949 or died after 1949 before attaining age 21,*
14 *shall be divided by the number of years (herein-*
15 *after in this subparagraph referred to as the 'divi-*
16 *sor') elapsing after 1949 and prior to 1951.".*
17 *(B) CREDITING OF WAGES TO YEARS.—*
18 *Clause (iii) of section 215(d)(1)(B) of such Act*
19 *(42 U.S.C. 415(d)(1)(B)(iii)) is amended to read*
20 *as follows:*
21 *"(iii) if the quotient exceeds $3,000, only*
22 *$3,000 shall be deemed to be the individual's*
23 *wages for each of the years which were used in*
24 *computing the amount of the divisor, and the re-*
25 *mainder of the individual's total wages prior to*

1 *1951 (I) if less than $3,000, shall be deemed*
2 *credited to the computation base year (as defined*
3 *in subsection (b)(2) as in effect in December*
4 *1977) immediately preceding the earliest year*
5 *used in computing the amount of the divisor, or*
6 *(II) if $3,000 or more, shall be deemed credited,*
7 *in $3,000 increments, to the computation base*
8 *year (as so defined) immediately preceding the*
9 *earliest year used in computing the amount of the*
10 *divisor and to each of the computation base years*
11 *(as so defined) consecutively preceding that year,*
12 *with any remainder less than $3,000 being cred-*
13 *ited to the computation base year (as so defined)*
14 *immediately preceding the earliest year to which a*
15 *full $3,000 increment was credited; and".*
16 *(C) APPLICABILITY.—Section 215(d) of*
17 *such Act is further amended—*
18 *(i) in paragraph (2)(B), by striking*
19 *"except as provided in paragraph (3),";*
20 *(ii) by striking paragraph (2)(C) and*
21 *inserting the following:*
22 *"(C)(i) who becomes entitled to benefits under sec-*
23 *tion 202(a) or 223 or who dies, or*

1 *"(ii) whose primary insurance amount is required*
2 *to be recomputed under paragraph (2), (6), or (7) of*
3 *subsection (f) or under section 231."; and*
4 *(iii) by striking paragraphs (3) and (4).*
5 *(3) CONFORMING AMENDMENTS.—*
6 *(A) Section 215(i)(4) of such Act (42*
7 *U.S.C. 415(i)(4)) is amended in the first sen-*
8 *tence by inserting "and as amended by section*
9 *2016 of the Technical and Miscellaneous Social*
10 *Security Act Amendments of 1990" after "as*
11 *then in effect".*
12 *(B) Section 203(a)(8) of such Act (42*
13 *U.S.C. 403(a)(8)) is amended in the first sen-*
14 *tence by inserting "and as amended by section*
15 *2016 of the Technical and Miscellaneous Social*
16 *Security Act Amendments of 1990," after "De-*
17 *cember 1978" the second place it appears.*
18 *(C) Section 215(c) of such Act (42 U.S.C.*
19 *415(c)) is amended by striking "This" and in-*
20 *serting "Subject to the amendments made by sec-*
21 *tion 2016 of the Technical and Miscellaneous*
22 *Social Security Act Amendments of 1990, this".*
23 *(D) Section 215(f)(7) of such Act (42*
24 *U.S.C. 415(f)(7)) is amended by striking the*
25 *period at the end of the first sentence and insert-*

1 *ing ", including a primary insurance amount*
2 *computed under any such subsection whose oper-*
3 *ation is modified as a result of the amendments*
4 *made by section 2016 of the Technical and Mis-*
5 *cellaneous Social Security Act Amendments of*
6 *1990.".*
7 *(E)(i) Section 215(d) of such Act (42*
8 *U.S.C. 415(d)) is amended by redesignating*
9 *paragraph (5) as paragraph (3).*
10 *(ii) Subsections (a)(7)(A), (a)(7)(C)(ii), and*
11 *(f)(9)(A) of section 215 of such Act (42 U.S.C.*
12 *415) are each amended by striking "subsection*
13 *(d)(5)" each place it appears and inserting "sub-*
14 *section (d)(3)".*
15 *"(iii) Section 215(f)(9)(B) of such Act (42*
16 *U.S.C. 415(f)(9)(B)) is amended by striking*
17 *"subsection (a)(7) or (d)(5)" each place it appears*
18 *and inserting "subsection (a)(7) or (d)(3)".*
19 *(4) EFFECTIVE DATE.—*
20 *(A) IN GENERAL.—Except as provided in*
21 *subparagraph (B), the amendments made by this*
22 *subsection shall apply with respect to the compu-*
23 *tation of the primary insurance amount of any*
24 *insured individual in any case in which a person*
25 *becomes entitled to benefits under section 202 or*

1 *223 on the basis of such insured individual's*
2 *wages and self-employment income for months*
3 *after the 18-month period following the month in*
4 *which this Act is enacted, except that such amend-*
5 *ments shall not apply if any person is entitled to*
6 *benefits based on the wages and self-employment*
7 *income of such insured individual for the month*
8 *preceding the initial month of such person's enti-*
9 *tlement to such benefits under section 202 or 223.*
10 *(B) RECOMPUTATIONS.—The amendments*
11 *made by this subsection shall apply with respect*
12 *to any primary insurance amount upon the re-*
13 *computation of such primary insurance amount if*
14 *such recomputation is first effective for monthly*
15 *benefits for months after the 18-month period fol-*
16 *lowing the month in which this Act is enacted.*
17 *(b) BENEFITS IN CASE OF VETERANS.—Section*
18 *217(b) of such Act (42 U.S.C. 417(b)) is amended—*
19 *(1) in the first sentence of paragraph (1), by*
20 *striking "Any" and inserting "Subject to paragraph*
21 *(3), any"; and*
22 *(2) by adding at the end the following new para-*
23 *graph:*
24 *"(3)(A) The preceding provisions of this subsection shall*
25 *apply for purposes of determining the entitlement to benefits*

1 *under section 202, based on the primary insurance amount of*
2 *the deceased World War II veteran, of any surviving indi-*
3 *vidual only if such surviving individual makes application*
4 *for such benefits before the end of the 18-month period after*
5 *the month in which the Technical and Miscellaneous Social*
6 *Security Act Amendments of 1990 was enacted.*

7 *"(B) Subparagraph (A) shall not apply if any person is*
8 *entitled to benefits under section 202 based on the primary*
9 *insurance amount of such veteran for the month preceding the*
10 *month in which such application is made.".*

11 *(c) APPLICABILITY OF ALTERNATIVE METHOD FOR*
12 *DETERMINING QUARTERS OF COVERAGE WITH RESPECT*
13 *TO WAGES IN THE PERIOD FROM 1937 TO 1950.—*

14 *(1) APPLICABILITY WITHOUT REGARD TO*
15 *NUMBER OF ELAPSED YEARS.—Section 213(c) of*
16 *such Act (42 U.S.C. 413(c)) is amended—*

17 *(A) by inserting "and 215(d)" after*
18 *"214(a)"; and*

19 *(B) by striking "except where—" and all*
20 *that follows and inserting the following: "except*
21 *where such individual is not a fully insured indi-*
22 *vidual on the basis of the number of quarters of*
23 *coverage so derived plus the number of quarters of*
24 *coverage derived from the wages and self-employ-*

1 *ment income credited to such individual for peri-*
2 *ods after 1950.".*
3 *(2) APPLICABILITY WITHOUT REGARD TO DATE*
4 *OF DEATH.—Section 155(b)(2) of the Social Security*
5 *Amendments of 1967 is amended by striking "after*
6 *such date".*
7 *(3) EFFECTIVE DATE.—The amendments made*
8 *by this subsection shall apply only with respect to indi-*
9 *viduals who—*
10 *(A) make application for benefits under sec-*
11 *tion 202 of the Social Security Act after the 18-*
12 *month period following the month in which this*
13 *Act is enacted, and*
14 *(B) are not entitled to benefits under section*
15 *227 or 228 of such Act for the month in which*
16 *such application is made.*
17 ***SEC. 2017. SUSPENSION OF DEPENDENT'S BENEFITS WHEN THE***
18 ***WORKER IS IN AN EXTENDED PERIOD OF ELIGI-***
19 ***BILITY.***
20 *(a) IN GENERAL.—Section 223(e) of the Social Secu-*
21 *rity Act is amended by—*
22 *(1) by inserting "(1)" after "(e)"; and*
23 *(2) by adding at the end the following new para-*
24 *graph:*

1 *"(2) No benefit shall be payable under section 202 on*
2 *the basis of the wages and self-employment income of an in-*
3 *dividual entitled to a benefit under subsection (a)(1) of this*
4 *section for any month for which the benefit of such individual*
5 *under subsection (a)(1) is not payable under paragraph*
6 *(1).".*
7 *(b) EFFECTIVE DATE.—The amendments made by*
8 *subsection (a) shall apply with respect to benefits for months*
9 *after the date of the enactment of this Act.*
10 ***SEC. 2018. TIER 1 RAILROAD RETIREMENT TAX RATES EXPLIC-***
11 ***ITLY DETERMINED BY REFERENCE TO SOCIAL***
12 ***SECURITY TAXES.***
13 *(a) TAX ON EMPLOYEES.—Subsection (a) of section*
14 *3201 of the Internal Revenue Code of 1986 (relating to rate*
15 *of tax) is amended—*
16 *(1) by striking "following" and inserting "appli-*
17 *cable", and*
18 *(2) by striking "employee:" and all that follows*
19 *and inserting "employee. For purposes of the preceding*
20 *sentence, the term 'applicable percentage' means the*
21 *percentage equal to the sum of the rates of tax in effect*
22 *under subsections (a) and (b) of section 3101 for the*
23 *calendar year."*

1 *(b) TAX ON EMPLOYEE REPRESENTATIVES.—Para-*
2 *graph (1) of section 3211(a) of such Code (relating to rate of*
3 *tax) is amended—*
4 *(1) by striking "following" and inserting "appli-*
5 *cable", and*
6 *(2) by striking "representative:" and all that fol-*
7 *lows and inserting "representative. For purposes of the*
8 *preceding sentence, the term 'applicable percentage'*
9 *means the percentage equal to the sum of the rates of*
10 *tax in effect under subsections (a) and (b) of section*
11 *3101 and subsections (a) and (b) of section 3111 for*
12 *the calendar year."*
13 *(c) TAX ON EMPLOYERS.—Subsection (a) of section*
14 *3221 of such Code (relating to rate of tax) is amended—*
15 *(1) by striking "following" and inserting "appli-*
16 *cable", and*
17 *(2) by striking "employer:" and all that follows*
18 *and inserting "employer. For purposes of the preceding*
19 *sentence, the term 'applicable percentage' means the*
20 *percentage equal to the sum of the rates of tax in effect*
21 *under subsections (a) and (b) of section 3111 for the*
22 *calendar year."*
23 ***SEC. 2019. TRANSFER TO RAILROAD RETIREMENT ACCOUNT.***
24 *Subsection (c)(1)(A) of section 224 of the Railroad Re-*
25 *tirement Solvency Act of 1983 (relating to section 72(r) reve-*

1 *nue increase transferred to certain railroad accounts) is*
2 *amended by striking "1990" and inserting "1992".*

3 ***SEC. 2020. WAIVER OF 2-YEAR WAITING PERIOD FOR INDEPEND-***
4 ***ENT ENTITLEMENT TO DIVORCED SPOUSE'S BEN-***
5 ***EFITS.***

6 *(a) WAIVER FOR PURPOSES OF DEDUCTIONS ON AC-*
7 *COUNT OF WORK.—Section 203(b)(2) of the Social Securi-*
8 *ty Act (42 U.S.C. 403(b)(2)) is amended—*
9 *(1) by striking "(2) When" and all that follows*
10 *through "2 years, the benefit" and inserting the follow-*
11 *ing:*
12 *"(2)(A) Except as provided in subparagraph (B), in*
13 *any case in which—*
14 *"(i) any of the other persons referred to in para-*
15 *graph (1)(B) is entitled to monthly benefits as a di-*
16 *vorced spouse under section 202(b) or (c) for any*
17 *month, and*
18 *"(ii) such person has been divorced for not less*
19 *than 2 years,*
20 *the benefit"; and*
21 *(2) by adding at the end the following new sub-*
22 *paragraph:*
23 *"(B) Clause (ii) of subparagraph (A) shall not apply*
24 *with respect to any divorced spouse in any case in which the*
25 *individual referred to in paragraph (1) became entitled to old-*

1 *age insurance benefits under section 202(a) before the date of*
2 *the divorce.".*

3 *(b) WAIVER IN CASE OF NONCOVERED WORK OUT-*
4 *SIDE THE UNITED STATES.—Section 203(d)(1)(B) of such*
5 *Act (42 U.S.C. 403(d)(1)(B)) is amended—*

6 *(1) by striking "(B) When" and all that follows*
7 *through "2 years, the benefit" and inserting the follow-*
8 *ing:*

9 *"(B)(i) Except as provided in clause (ii), in any case in*
10 *which—*

11 *"(I) a divorced spouse is entitled to monthly bene-*
12 *fits under section 202(b) or (c) for any month, and*

13 *"(II) such divorced spouse has been divorced for*
14 *not less than 2 years,*

15 *the benefit"; and*

16 *(2) by adding at the end the following new clause:*

17 *"(ii) Subclause (II) of clause (i) shall not apply with*
18 *respect to any divorced spouse in any case in which the indi-*
19 *vidual entitled to old-age insurance benefits referred to in*
20 *subparagraph (A) became entitled to such benefits before the*
21 *date of the divorce.".*

22 *(c) EFFECTIVE DATE.—The amendments made by this*
23 *section shall apply with respect to benefits for months after*
24 *December 1990.*

1 *SEC. 2021. MODIFICATION OF THE PREEFFECTUATION REVIEW*
2 *REQUIREMENT APPLICABLE TO DISABILITY IN-*
3 *SURANCE CASES.*

4 *(a) IN GENERAL.—Section 221(c)(3) of the Social Se-*
5 *curity Act (42 U.S.C. 421(c)(3)) is amended to read as fol-*
6 *lows:*

7 *"(3)(A) In carrying out the provisions of paragraph (2)*
8 *with respect to the review of determinations made by State*
9 *agencies pursuant to this section that individuals are under*
10 *disabilities (as defined in section 216(i) or 223(d)), the Sec-*
11 *retary shall review—*

12 *"(i) at least 50 percent of all such determinations*
13 *made by State agencies on applications for benefits*
14 *under this title, and*

15 *"(ii) other determinations made by State agencies*
16 *pursuant to this section to the extent necessary to*
17 *assure a high level of accuracy in such other determi-*
18 *nations.*

19 *"(B) In conducting reviews pursuant to subparagraph*
20 *(A), the Secretary shall, to the extent feasible, select for*
21 *review those determinations which the Secretary identifies as*
22 *being the most likely to be incorrect.*

23 *"(C) Not later than April 1, 1992, and annually there-*
24 *after, the Secretary shall submit to the Committee on Ways*
25 *and Means of the House of Representatives and the Commit-*
26 *tee on Finance of the Senate a written report setting forth the*

1 *number of reviews conducted under subparagraph (A)(ii)*
2 *during the preceding fiscal year and the findings of the Sec-*
3 *retary based on such reviews of the accuracy of the determi-*
4 *nations made by State agencies pursuant to this section.".*
5 *(b) EFFECTIVE DATE.—The amendment made by sub-*
6 *section (a) shall apply with respect to determinations made*
7 *by State agencies in fiscal years after fiscal year 1990.*
8 ***SEC. 2022. ADJUSTMENTS IN EXEMPT AMOUNT FOR PURPOSES***
9 ***OF THE RETIREMENT TEST.***
10 *(a) INCREASE IN EXEMPT AMOUNT FOR INDIVID-*
11 *UALS WHO HAVE ATTAINED RETIREMENT AGE.—Section*
12 *203(f)(8)(D) of the Social Security Act (42 U.S.C.*
13 *403(f)(8)(D)) is amended to read as follows:*
14 *"(D)(i) Notwithstanding any other provision of*
15 *this subsection, the exempt amount which is applicable*
16 *to an individual who has attained retirement age (as*
17 *defined in section 216(l)) before the close of the taxable*
18 *year involved—*
19 *"(I) shall be the amount which would be de-*
20 *termined under this paragraph for each month of*
21 *any taxable year ending after 1992 and before*
22 *1994 if section 2022 of the Technical and Miscel-*
23 *laneous Social Security Act Amendments of 1990*
24 *had not been enacted, plus $150.00, and*

1 *"(II) shall be the amount which would be*
2 *determined under this paragraph for each month*
3 *of any taxable year ending after 1993 and before*
4 *1995 if such section 2022 had not been enacted,*
5 *plus $220.00.*
6 *"(ii) For purposes of subparagraph (B)(ii)(II),*
7 *the increase in the exempt amount provided under*
8 *clause (i)(II) shall be deemed to have resulted from a*
9 *determination which shall be deemed to have been*
10 *made under subparagraph (A) in 1993.".*
11 *(b) EFFECTIVE DATE.—The amendment made by this*
12 *section shall apply with respect to taxable years ending after*
13 *1992.*
14 ***SEC. 2023. EARNINGS IN YEARS AFTER ATTAINING AGE 69 DIS-***
15 ***REGARDED FOR PURPOSES OF BENEFIT RECOM-***
16 ***PUTATION EXCEPT TO COMPENSATE FOR YEARS***
17 ***OF ZERO EARNINGS.***
18 *(a) IN GENERAL.—Section 215(f) of the Social Secu-*
19 *rity Act (42 U.S.C. 415(f)) is amended by adding at the end*
20 *the following new subsection:*
21 *"(10)(A) Except as provided in subparagraph (B), in*
22 *making any recomputation of benefits provided for in this*
23 *subsection (or this subsection as in effect in December 1978),*
24 *any individual's wages or self-employment income for a year*

1 *after such individual attains age 69 shall not be taken into*
2 *account.*
3 *"(B)(i) Subject to clause (ii), subparagraph (A) shall*
4 *not apply with respect to an individual's wages and self-em-*
5 *ployment income for any year to the extent that such individ-*
6 *ual's benefit computation years include a year for which no*
7 *wages and self-employment income are credited to such indi-*
8 *vidual.*
9 *"(ii) Clause (i) shall apply in the case of any individ-*
10 *ual only if the year for which such individual is credited with*
11 *wages or self-employment income after such individual at-*
12 *tains age 69 would be substituted in the recomputation under*
13 *this section for a benefit computation year in which no wages*
14 *or self-employment income have been credited previously to*
15 *such individual."*
16 *(b) EFFECTIVE DATE.—The amendment made by sub-*
17 *section (a) shall apply with respect to recomputations of bene-*
18 *fits on the basis of wages and self-employment income for*
19 *years after 1990.*
20 ***SEC. 2024. MISCELLANEOUS TECHNICAL CORRECTIONS.***
21 *(a) IN GENERAL.—*
22 *(1) AMENDMENT RELATING TO SECTION 7088 OF*
23 *PUBLIC LAW 100–690.—Section 208 of the Social Se-*
24 *curity Act (42 U.S.C. 408) is amended, in the last*

1 *undesignated paragraph, by striking "section 405(c)(2)*
2 *of this title" and inserting "section 205(c)(2)".*
3 *(2) AMENDMENTS RELATING TO SECTION 322 OF*
4 *PUBLIC LAW 98–21.—Paragraphs (1) and (2) of sec-*
5 *tion 322(b) of the Social Security Amendments of*
6 *1983 (Public Law 98–21, 97 Stat. 121) are each*
7 *amended by inserting "the first place it appears"*
8 *before "the following".*
9 *(3) AMENDMENT RELATING TO SECTION*
10 *1011B(b)(4) OF PUBLIC LAW 100–647.—Section 211(a)*
11 *of the Social Security Act (42 U.S.C. 411(a)) is*
12 *amended by redesignating the second paragraph (14)*
13 *as paragraph (15).*
14 *(4) AMENDMENT RELATING TO SECTION 2003(d)*
15 *OF PUBLIC LAW 100–647.—Paragraph (3) of section*
16 *3509(d) of the Internal Revenue Code of 1986 (as*
17 *amended by section 2003(d) of the Technical and Mis-*
18 *cellaneous Revenue Act of 1988 (Public Law 100–*
19 *647; 102 Stat. 3598)) is further amended by striking*
20 *"subsection (d)(4)" and inserting "subsection (d)(3)".*
21 *(5) AMENDMENT RELATING TO SECTION 10208*
22 *OF PUBLIC LAW 101–239.—Section 209(a)(7)(B) of the*
23 *Social Security Act (42 U.S.C. 409(a)(7)(B)) is*
24 *amended by striking "subparagraph (B)" in the matter*
25 *following clause (ii) and inserting "clause (ii)".*

1 (b) EFFECTIVE DATES.—The amendments made by
2 subsection (a) shall be effective as if included in the enact-
3 ment of the provision to which it relates.

4 TITLE III—MISCELLANEOUS AND 5 TECHNICAL AMENDMENTS RE-6 LATING TO THE MEDICARE PRO-7 GRAM

8 TABLE OF CONTENTS OF TITLE

Subtitle A—No-Cost Provisions

Sec. 3001. Patient self-determination.
Sec. 3002. Miscellaneous and technical provisions relating to part A.
Sec. 3003. Miscellaneous and technical provisions relating to part B.
Sec. 3004. Health maintenance organizations.
Sec. 3005. Standards for medicare supplemental insurance.
Sec. 3006. Miscellaneous and technical provisions relating to part A and part B.

Subtitle B—Medicare Initiatives

Sec. 3101. PPS-exempt hospital adjustment.
Sec. 3102. Hospital physician education recoupment.
Sec. 3103. University hospital nursing education.
Sec. 3104. Community health centers and rural health clinics.
Sec. 3105. Nurse anesthetists fees.
Sec. 3106. Partial hospitalization services in community mental health centers.
Sec. 3107. Rural blood laboratories.
Sec. 3108. Psychology services for inpatients.
Sec. 3109. End stage renal disease rates.
Sec. 3110. Self-administration of erythropoietin (epo).
Sec. 3111. Radiology services.
Sec. 3112. Hospice benefit extension.

Subtitle C—Medicare Program Cost Reductions

Sec. 3201. Extend DRG payment window to exclude weekends.
Sec. 3202. Reduction in payments for overpriced physicians' services.
Sec. 3203. Interpretation of EKGs.
Sec. 3204. Payments for hospital outpatient capital.
Sec. 3205. Payments for hospital outpatient services.
Sec. 3206. Coverage for seatlifts.
Sec. 3207. Reduction in payments for TENS devices.
Sec. 3208. Clinical laboratory services.
Sec. 3209. Secondary payer for end stage renal disease.

101ST CONGRESS
2D SESSION

H. R. 5828

[Report No. 101–899, Part I]

A BILL

To make miscellaneous and technical amendments to the Social Security Act.

OCTOBER 18, 1990

Reported from the Committee on Ways and Means with an amendment and ordered to be printed

101ST CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPT. 101-899
Part 1

TECHNICAL AND MISCELLANEOUS SOCIAL SECURITY ACT AMENDMENTS OF 1990

OCTOBER 18, 1990.—Ordered to be printed

Mr. ROSTENKOWSKI, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H.R. 5828 which on October 15, 1990 was referred jointly to the Committees on Ways and Means and Energy and Commerce]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 5828) to make miscellaneous and technical amendments to the Social Security Act, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
I. Introduction	68
a. Purpose and Scope	68
b. Background and Need for Legislation	69
c. Summary of Principal Provisions	71
II. Explanation of Provisions	72
a. Human Resource Provisions	72
b. Social Security Provisions	85
c. Health Provisions	107
III. Budget Effects of the Bill	145
a. Committee Estimate	145
b. Statement regarding New Budget Authority and Tax Expenditures	145
c. Cost Estimate Prepared by the Congressional Budget Office	146
IV. Other Matters Required to be Discussed Under the Rules of the House	150
a. Vote of the Committee	150
b. Oversight Findings	150
c. Oversight by Committee on Government Operations	152
d. Inflationary Impact	152

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

35-174

TITLE I—HUMAN RESOURCE AMENDMENTS

SEC. 1001. SHORT TITLE; TABLE OF CONTENTS; AMENDMENT OF SOCIAL SECURITY ACT.

(a) SHORT TITLE.—This title may be cited as the "Human Resource Amendments of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1001. Short title; table of contents; amendment of Social Security Act.

SUBTITLE A—CHILD SUPPORT ENFORCEMENT

Sec. 1011. Extension of IRS intercept for non-AFDC families.
Sec. 1012. Extension of Commission on Interstate Child Support.
Sec. 1013. Texas child support enforcement waiver.

SUBTITLE B—UNEMPLOYMENT COMPENSATION

Sec. 1021. Reed Act" provisions made permanent.
Sec. 1022. Prohibition against collateral estoppel.

SUBTITLE C—SUPPLEMENTAL SECURITY INCOME

Sec. 1031. Exclusion from income and resources of victims' compensation payments.
Sec. 1032. Attainment of age 65 not to serve as basis for termination of eligibility under section 1619(b).
Sec. 1033. Exclusion from income of impairment-related work expenses.
Sec. 1034. Treatment of royalties and honoraria as earned income.
Sec. 1035. Certain State relocation assistance excluded from SSI income and resources.
Sec. 1036. Evaluation of child's disability by pediatrician or other qualified specialist.
Sec. 1037. Reimbursement for vocational rehabilitation services furnished during certain months of nonpayment of supplemental security income benefits.
Sec. 1038. Extension of period of presumptive eligibility for benefits.
Sec. 1039. Continuing disability or blindness reviews not required more than once annually.

SUBTITLE D—AID TO FAMILIES WITH DEPENDENT CHILDREN

Sec. 1041. Optional monthly reporting and retrospective budgeting.
Sec. 1042. Children receiving foster care maintenance payments or adoption assistance payments not treated as member of family unit for purposes of determining eligibility for, or amount of, AFDC benefit.
Sec. 1043. Elimination of term "legal guardian".
Sec. 1044. Reporting of child abuse and neglect.
Sec. 1045. Disclosure of information about AFDC applicants and recipients authorized for purposes directly connected to State foster care and adoption assistance programs.
Sec. 1046. Repatriation.
Sec. 1047. Technical amendments to National Commission on Children.
Sec. 1048. Extension of prohibition against implementation of proposed regulations on emergency assistance and AFDC special needs.
Sec. 1049. Amendments to Minnesota Family Investment Plan demonstration.

SUBTITLE E—CHILD WELFARE AND FOSTER CARE

Sec. 1051. Accounting for administrative costs.
Sec. 1052. Section 427 triennial reviews.
Sec. 1053. Extension of services under the independent living program.

(c) AMENDMENT OF SOCIAL SECURITY ACT.—Except as otherwise expressly provided, wherever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

Subtitle C—Supplemental Security Income

SEC. 1031. EXCLUSION FROM INCOME AND RESOURCES OF VICTIMS' COMPENSATION PAYMENTS.

(a) EXCLUSION FROM INCOME.—Section 1612(b) (42 U.S.C. 1382a(b)) is amended—

(1) by striking "and" at the end of paragraph (15);

(2) by striking the period at the end of paragraph (16) and inserting "; and"; and

(3) by adding at the end the following:

"(17) any amount received from a fund established by a State to aid victims of crime.".

(b) EXCLUSION FROM RESOURCES.—Section 1613(a) (42 U.S.C. 1382(a)) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; and"; and

(3) by adding at the end the following:

"(9)(A) any amount received from a fund established by a State to aid victims of crime, to the extent that the recipient demonstrates that such amount was paid as compensation for expenses incurred or losses suffered as a result of a crime; and

"(B) any amount received from a fund described in subparagraph (A) that is not excluded by reason of subparagraph (A) and is unexpended, for the 9-month period beginning after the month in which received.".

(c) VICTIMS COMPENSATION AWARD NOT REQUIRED TO BE ACCEPTED AS CONDITION OF RECEIVING BENEFITS.—Section 1631(a) (42 U.S.C. 1383(a)) is amended by adding at the end the following:

"(9) Benefits under this title shall not be denied to any individual solely by reason of the refusal of the individual to accept an amount offered as compensation for a crime of which the individual was a victim.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect for months beginning 6 or more months after the date of the enactment of this Act.

SEC. 1032. ATTAINMENT OF AGE 65 NOT TO SERVE AS BASIS FOR TERMINATION OF ELIGIBILITY UNDER SECTION 1619(b).

(a) IN GENERAL.—Section 1619(b) (42 U.S.C. 1392h(b)) is amended by striking "under age 65".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to benefits payable for months beginning 6 or more months after the date of the enactment of this Act.

SEC. 1033. EXCLUSION FROM INCOME OF IMPAIRMENT-RELATED WORK EXPENSES.

(a) IN GENERAL.—Section 1612(b)(4)(B)(ii) (42 U.S.C. 1382a(b)(4)(B)(ii)) is amended by striking "(for purposes of determining the amount of his or her benefits under this title and of determining his or her eligibility for such benefits for consecutive months of eligibility after the initial month of such eligibility)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to benefits payable for calendar months beginning after the date of the enactment of this Act.

SEC. 1034. TREATEMENT OF ROYALTIES AND HONORARIA AS EARNED INCOME.

(a) IN GENERAL.—Section 1612(a) (42 U.S.C. 1382a(a)) is amended—

(1) in paragrpah (1)—

(A) by striking "and" at the end of subparagraph (C); and

(B) by adding at the end the following:

"(E) any royalty earned from self-employment in a trade or business, or by an individual in connection with any publication of the work of the individual, and

that portion of any honorarium which is received for services rendered; and"; and

(2) in paragrpah (2)(F), by inserting "not described in paragraph (1)(E)" before the period.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits for calendar months beginning 17 or more after the date of the enactment of this Act.

SEC. 1035. CERTAIN STATE RELOCATION ASSISTANCE EXCLUDED FROM SSI INCOME AND RESOURCES.

(a) EXCLUSION FROM INCOME.—Section 1612(b) (42 U.S.C. 1382a(b)), as amended by section 1031(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (16);

(2) by striking the period at the end of paragraph (17) and inserting a semicolon; and

(3) by inserting after paragraph (17) the following:

"(18) relocation assistance provided by a State or local government to such individual (or such spouse), comparable to assistance provided under title II of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 which is subject to the treatment required by section 216 of such Act.".

(b) EXCLUSION FROM RESOURCES.—Section 1613(a) (42 U.S.C. 1382b(a)), as amended by section 1031(b) of this Act, is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting a semicolon; and

(3) by inserting after paragraph (8) the following:

"(9) relocation assistance provided by a State or local government to such individual (or such spouse), comparable to assistance provided under title II of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 which is subject to the treatment required by section 216 of such Act.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits payable for months beginning 6 or more calendar months after the date of this enactment of this Act.

SEC. 1036. EVALUATION OF CHILD'S DISABILITY BY PEDIATRICIAN OR OTHER QUALIFIED SPECIALIST.

(a) IN GENERAL.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)) is amended by adding at the end the following:

"(H) In making any determination under this title with respect to the disability of a child who has not attained the age of 18 years, the Secretary shall make reasonable efforts to ensure that a qualified pediatrician or other individual who specializes in a field of medicine appropriate to the disability of the child (as determined by the Secretary) evaluates the child.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to determinations made 6 or more months after the date of the enactment of this Act.

SEC. 1037. REIMBURSEMENT FOR VOCATIONAL REHABILITATION SERVICES FURNISHED DURING CERTAIN MONTHS OF NONPAYMENT OF SUPPLEMENTAL SECURITY INCOME BENEFITS.

(a) IN GENERAL.—Section 1615 (42 U.S.C. 1382d) is amended by adding at the end the following:

"(e) The Secretary may reimburse the State agency described in subsection (d) for the costs described therein incurred in the provision of rehabilitation services—

"(1) for any month for which an individual received—

"(A) benefits under section 1611;

"(B) assistance pursuant to section 1619(b); or

"(C) a federally administered State supplementary payment under section 1616; and

"(2) for any month before the 13th consecutive month for which an individual, for a reason other than cessation of disability or blindness, was ineligible for—

"(A) benefits under section 1611;

"(B) federally administered State supplementary payments under any agreement entered into under section 1616(a);

"(C) benefits under section 1619; and

"(D) federally administered State supplementary payments under any agreement entered into under section 212(b) of Public Law 93-66.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to claims for reimbursement pending on or after such date.

SEC. 1038. EXTENSION OF PERIOD OF PRESUMPTIVE ELIGIBILITY FOR BENEFITS.

(a) IN GENERAL.—Section 1631(a)(4)(B) (42 U.S.C. 1383(a)(4)(B)) is amended by striking "3" and inserting "6".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 1039. CONTINUING DISABILITY OR BLINDNESS REVIEWS NOT REQUIRED MORE THAN ONCE ANNUALLY.

(a) IN GENERAL.—Section 1619 (42 U.S.C. 1382h) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) Subsection (a)(2) and section 1631(j)(2)(A) shall not be construed, singly or jointly, to require more than 1 determination during any 12-month period with respect to the continuing disability or blindness of an individual.".

(b) CONFORMING AMENDMENT.—Section 1631(j)(2)(A) (42 U.S.C. 1383(j)(2)(A)) is amended by inserting "(other than subsection (c) thereof" after "1619" the 1st place such term appears.

(c) EFFECTIVE DATE.—The amendment made by subsections (a) and (b) shall take effect on the date of the enactment of this Act.

TITLE II—AMENDMENTS RELATING TO OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

SEC. 2000. TABLE OF CONTENTS.

Sec. 2000. Table of contents.
Sec. 2001. Continuation of disability benefits during appeal.
Sec. 2002. Repeal of special disability standard for widows and widowers.
Sec. 2003. Dependency requirements applicable to a child adopted by a surviving spouse.
Sec. 2004. Entitlement to benefits of deemed spouse and legal spouse.
Sec. 2005. Representative payee reforms.
Sec. 2006. Fees for representation of claimants in administrative proceedings.
Sec. 2007. Notice requirements.
Sec. 2008. Applicability of administrative res judicata; related notice requirements.
Sec. 2009. Telephone access to the Social Security Administration.
Sec. 2010. Vocational rehabilitation demonstration projects.
Sec. 2011. Exemption for certain aliens, receiving amnesty under the Immigration and Nationality Act, from prosecution for misreporting of earnings or misuse of social security account numbers or social security cards.
Sec. 2012. Reduction of amount of wages needed to earn a year of coverage applicable in determining special minimum primary insurance amount.
Sec. 2013. Elimination of eligibility for retroactive benefits for certain individuals eligible for reduced benefits.
Sec. 2014. Charging of earnings of corporate directors.
Sec. 2015. Collection of employee social security and railroad retirement taxes on taxable group-term life insurance provided to retirees.
Sec. 2016. Consolidation of old methods of computing primary insurance amounts.
Sec. 2017. Suspension of dependent's benefits when the worker is in an extended period of eligibility.
Sec. 2018. Tier 1 railroad retirement tax rates explicitly determined by reference to social security taxes.
Sec. 2019. Transfer to railroad retirement account.
Sec. 2020. Waiver of 2-year waiting period for independent entitlement to divorced spouse's benefits.
Sec. 2021. Modification of the preeffectuation review requirement applicable to disability insurance cases.
Sec. 2022. Adjustments in exempt amount for purposes of the retirement test.
Sec. 2023. Earnings in years after attaining age 69 disregarded for purposes of benefit recomputation except to compensate for years of zero earnings.
Sec. 2024. Miscellaneous technical corrections.

SEC. 2001. CONTINUATION OF DISABILITY BENEFITS DURING APPEAL.

Subsection (g) of section 223 of the Social Security Act (42 U.S.C. 423(g)) is amended—

(1) in paragraph (1)(i), by inserting "or" after "hearing,", and by striking "pending, or (iii) June 1991." and inserting "pending."; and

(2) by strikng paragraph (3).

SEC. 2002. REPEAL OF SPECIAL DISABILITY STANDARD FOR WIDOWS AND WIDOWERS.

(a) IN GENERAL.—Section 223(d)(2) of the Social Security Act (42 U.S.C. 423(d)(2)) is amended—

(1) in subparagraph (A), by striking "(except a widow, surviving divorced wife, widower, or surviving divorced husband for purposes of section 202 (e) or (f))";
(2) by striking subparagraph (B); and
(3) by redesignating subparagraph (C) as subparagraph (B).

(b) CONFORMING AMENDMENTS.—
(1) The third sentence of section 216(i)(1) of such Act (42 U.S.C. 416(i)(1)) is amended by striking "(2)(C)" and inserting "(2)(B)".
(2) Section 223(f)(1)(B) of such Act (42 U.S.C. 423(f)(1)(B)) is amended to read as follows:
"(B) the individual is now able to engage in substantial gainful activity; or".
(3) Section 223(f)(2)(A)(ii) of such Act (42 U.S.C. 423(f)(2)(A)(ii)) is amended to read as follows:
"(ii) the individual is now able to engage in substantial gainful activity, or".
(4) Section 223(f)(3) of such Act (42 U.S.C. 423(f)(3)) is amended by striking "therefore—" and all that follows and inserting "therefore the individual is able to engage in substantial gainful activity; or".
(5) Section 223(f) of such Act is further amended, in the matter following paragraph (4), by striking "(or gainful activity in the case of a widow, surviving divorced wife, widower, or surviving divorced husband)" each place it appears.

(c) TRANSITIONAL RULES RELATING TO MEDICAID AND MEDICARE ELIGIBILITY.—
(1) DETERMINATION OF MEDICAID ELIGIBILITY.—Section 1634(d) of such Act (42 U.S.C. 1383c(d)) is amended—
(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;
(B) by striking "(d) If any person—" and inserting "(d)(1) This subsection applies with respect to any person who—";
(C) in subparagraph (A) (as redesignated), by striking "as required" and all that follows through "but not entitled" and inserting "being then not entitled";
(D) in subparagraph (B) (as redesignated), by striking the comma at the end and inserting a period; and
(E) by striking "such person shall" and all that follows and inserting the following new paragraph:

"(2) For purposes of title XIX, each person with respect to whom this subsection applies—
"(A) shall be deemed to be a recipient of supplemental security income benefits under this title if such person received such a benefit for the month before the month in which such person began to receive a benefit described in paragraph (1)(A), and
"(B) shall be deemed to be a recipient of State supplementary payments of the type referred to in section 1616(a) of this Act (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in such section 1616(a) (or in section 212(b) of Public Law 93-66) if such person received such a payment for the month before the month in which such person began to receive a benefit described in paragraph (1)(A),

for so long as such person (i) would be eligible for such supplemental security income benefits, or such State supplementary payments, in the absence of benefits described in paragraph (1)(A), and (ii) is not entitled to hospital insurance benefits under part A of title XVIII.".

(2) INCLUSION OF MONTHS OF SSI ELIGIBILITY WITHIN 5-MONTH DISABILITY WAITING PERIOD AND 24-MONTH MEDICARE WAITING PERIOD.—
(A) WIDOW'S BENEFITS BASED ON DISABILITY.—Section 202(e)(5) of the Social Security Act (42 U.S.C. 402(e)(5)) is amended—
(i) in subparagraph (B), by striking "(i)" and "(ii)" and inserting "(I)" and "(II)", respectively;
(ii) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;
(iii) by inserting "(A)" after "(5)"; and
(iv) by adding at the end the following new subparagraph:

"(B) for purposes of paragraph (1)(F)(i), each month in the period commencing with the first month for which such widow or surviving divorced wife is first eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-

66), shall be included as one of the months of such waiting period for which the requirements of subparagraph (A) have been met.".

(B) WIDOWER'S BENEFITS BASED ON DISABILITY.—Section 202(f)(6) of such Act (42 U.S.C. 402(f)(6)) is amended—

(i) in subparagraph (B), by striking "(i)" and "(ii)" and inserting "(I)" and "(II)", respectively;

(ii) by redesignating subparagraph (A) and (B) as clauses (i) and (ii), repectively;

(iii) by inserting "(A)" after "(6)"; and

(iv) by adding at the end the following new subparagraph:

"(B) For purposes of paragraph (1)(F)(i), each month in the period commencing with the first month for which such widower or surviving divorced husband is first eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-66), shall be included as one of the months of such waiting period for which the requirements of subparagraph (A) have been met.".

(C) MEDICARE BENEFITS.—Section 226(e)(1) of such Act (42 U.S.C. 426(e)(1)) is amended—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(ii) by inserting "(A)" after "(e)(1)"; and

(iii) by adding at the end the following new subparagraph:

"(B) For purposes of subsection (b)(2)(A)(iii), each month in the period commencing with the first month for which an individual is first eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) of this Act (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-66), shall be included as one of the 24 months for which such individual must have been entitled to widow's or widower's insurance benefits on the basis of disability in order to become entitled to hospital insurance benefits on that basis.".

(d) DEEMED DISABILITY FOR PURPOSES OF ENTITLEMENT TO WIDOW'S AND WIDOWER'S INSURANCE BENEFITS FOR WIDOWS AND WIDOWERS ON SSI ROLLS.—

(1) WIDOW'S INSURANCE BENEFITS.—Section 202(e) of such Act (42 U.S.C. 402(e)) is amended by adding at the end the following new paragraph:

"(9) An individual shall be deemed to be under a disability for purposes of paragraph (1)(B)(ii) if such individual is eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-66), for the month for which all requirements of paragraph (1) for entitlement to benefits under this subsection (other than being under a disability) are met.".

(2) WIDOWER'S INSURANCE BENEFITS.—Section 202(f) of such Act (42 U.S.C. 402(f)) is amended by adding at the end the following new paragraph:

"(9) An individual shall be deemed to be under a disability for purposes of paragraph (1)(B)(ii) if such individual is eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in such section 1616(a) (or in section 212(b) of Public Law 93-66), for the month for which all requirements of paragraph (1) for entitlement to benefits under this subsection (other than being under a disability) are met.".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section (other than paragraphs (1) and (2)(C) of subsection (c)) shall apply with respect to monthly insurance benefits for months after December 1990 for which applications are filed on or after January 1, 1991, or are pending on such date. The amendments made by subsection (c)(1) shall apply with respect to medical assistance provided after December 1990. The amendments made by subsection (c)(2)(C) shall apply with respect to items and services furnished after December 1990.

(2) APPLICATION REQUIREMENTS FOR CERTAIN INDIVIDUALS ON BENEFIT ROLLS.—In the case of any individual who—

(A) is entitled to disability insurance benefits under section 223 of the Social Security Act for December 1990 or is eligible for supplemental securi-

ty income benefits under title XVI of such Act, or State supplementary payments of the type referred to in section 1616(a) of such Act (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in such section 1616(a) (or in section 212(b) of Public Law 93-66), for January 1991,

(B) applied for widow's or widower's insurance benefits under subsection (e) or (f) of section 202 of the Social Security Act during 1990, and

(C) is not entitled to such benefits under such subsection (e) or (f) for any month on the basis of such application by reason of the definition of disability under section 223(d)(2)(B) of the Social Security Act (as in effect immediately before the date of the enactment of this Act), and would have been so entitled for such month on the basis of such application if the amendments made by this section had been applied with respect to such application,

for purposes of determining such individual's entitlement to such benefits under subsection (e) or (f) of section 202 of the Social Security Act for months after December 1990, the requirement of paragraph (1)(C)(i) of such subsection shall be deemed to have been met.

SEC. 2003. DEPENDENCY REQUIREMENTS APPLICABLE TO A CHILD ADOPTED BY A SURVIVING SPOUSE.

(a) IN GENERAL.—Section 216(e) of the Social Security Act (42 U.S.C. 416(e)) is amended in the second sentence—

(1) by striking "at the time of such individual's death living in such individual's household" and inserting "either living with or receiving at least one-half of his support from such individual at the time of such individual's death"; and

(2) by striking "; except" and all that follows and inserting a period.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits payable for months after December 1990, but only on the basis of applications filed after December 31, 1990.

SEC. 2004. ENTITLEMENT TO BENEFITS OF DEEMED SPOUSE AND LEGAL SPOUSE.

(a) CONTINUED ENTITLEMENT OF DEEMED SPOUSE DESPITE ENTITLEMENT OF LEGAL SPOUSE.—Section 216(h)(1) of the Social Security Act (42 U.S.C. 416(h)(1)) is amended—

(1) in subparagraph (A)—

(A) by inserting "(i)" after "(h)(1)(A)"; and

(B) by striking "If such courts" in the second sentence and inserting the following:

"(ii) If such courts"; and

(2) in subparagraph (B)—

(A) by inserting "(i)" after "(B)";

(B) by striking "The provisions of the preceding sentence" in the second sentence and inserting the following:

"(ii) The provisions of clause (i)";

(C) by striking "(i) if another" in the second sentence and all that follows through "or (ii)";

(D) by striking "The entitlement" in the third sentence and inserting the following:

"(iii) The entitlement",

(E) by striking "subsection (b), (c), (e), (f), or (g)" in the third sentence and inserting "subsection (b) or (c)",

(F) by striking "wife, widow, husband, or widower" the first place it appears in the third sentence and inserting "wife or husband";

(G) by striking "(i) in which" in the third sentence and all that follows through "in which such applicant entered" and inserting "in which such persons enters";

(H) by striking "For purposes" in the fourth sentence and inserting the following:

"(iv) For purposes";

and

(I) by striking "(i)" and "(ii)" in the fourth sentence and inserting "(I)" and "(II)", respectively.

(b) TREATMENT OF DIVORCE IN THE CONTEXT OF INVALID MARRIAGE.—Section 216(h)(1)(B)(i) of such Act (as amended by subsection (a)) is further amended—

(1) by striking "where under subsection (b), (c), (f), or (g) such applicant is not the wife, widow, husband, or widower of such individual" and inserting "where under subsection (b), (c), (d), (f), or (g) such applicant is not the wife, divorced

wife, widow, surviving divorced wife, husband, divorced husband, widower, or surviving divorced husband of such individual";

(2) by striking "and such applicant" and all that follows through "files the application,";

(3) by striking "subsections (b), (c), (f), and (g)" and inserting "subsections (b), (c), (d), (f), and (g)"; and

(4) by adding at the end the following new sentences: "Notwithstanding the preceding sentence, in the case of any person who would be deemed under the preceding sentence a wife, widow, husband, or widower of the insured individual, such marriage shall not be deemed to be a valid marriage unless the applicant and the insured individual were living in the same household at the time of the death of the insured individual or (if the insured individual is living) at the time the applicant files the application. A marriage that is deemed to be a valid marriage by reason of the preceding sentence shall continue to be deemed a valid marriage if the insured individual and the person entitled to benefits as the wife or husband of the insured individual are no longer living in the same household at the time of the death of such insured individual.".

(c) TREATMENT OF MULTIPLE ENTITLEMENTS UNDER THE FAMILY MAXIMUM.—Section 203(a)(3) of such Act (42 U.S.C. 403(a)(3)) is amended by adding after subparagraph (C) the following new subparagraph:

"(D) In any case in which—

"(i) two or more individuals are entitled to monthly benefits for the same month as a spouse under subsection (b) or (c) of section 202, or as a surviving spouse under subsection (e), (f), or (g) of section 202,

"(ii) at least one of such individuals is entitled by reason of subparagraph (A)(ii) or (B) of section 216(h)(1), and

"(iii) such entitlements are based on the wages and self-employment income of the same insured individual,

the benefit of the entitled individual whose entitlement is based on a valid marriage (as determined without regard to subparagraphs (A)(ii) and (B) of section 216(h)(1)) to such insured individual shall, for such month and all months thereafter, be determined without regard to this subsection, and the benefits of all other individuals who are entitled, for such month or any month thereafter, to monthly benefits under section 202 based on the wages and self-employment income of such insured individual shall be determined as if such entitled individual were not entitled to benefits for such month.".

(d) CONFORMING AMENDMENT.—Section 203(a)(6) of such Act (42 U.S.C. 403(a)(6)) is amended by inserting "(3)(D)," after "(3)(C),".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to benefits for months after December 1990.

(2) TERMINATED BENEFICIARIES AND DIVORCED DEEMED SPOUSES.—In the case of individuals whose benefits under title II of the Social Security Act have been terminated under section 216(h)(1)(B) of such Act before January 1, 1991, or who would be entitled to benefits under such title for any month after December 1990 as a divorced spouse or surviving divorced spouse solely by reason of the amendments made by this section, the amendment made by this section shall apply only with respect to benefits for which application is filed with the Secretary of Health and Human Services after December 31, 1990.

SEC. 2005. REPRESENTATIVE PAYEE REFORMS.

(a) IMPROVEMENTS IN THE REPRESENTATIVE PAYEE SELECTION AND RECRUITMENT PROCESS.—

(1) AUTHORITY FOR CERTIFICATION OF PAYMENTS TO REPRESENTATIVE PAYEES.—

(A) TITLE II.—Section 205(j)(1) of the Social Security Act (42 U.S.C. 405(j)) is amended to read as follows:

"REPRESENTATIVE PAYEES

"(j)(1) If the Secretary determines that the interest of any individual under this title would be served thereby, certification of payment of such individual's benefit under this title may be made, regardless of the legal competency or incompetency of the individual, either for direct payment to the individual, or for his or her use and benefit, to another individual or organization with respect to whom the requirements of paragraph (2) have been met (hereinafter in this subsection referred to as the individual's 'representative payee'). If the Secretary or a court of competent jurisdiction determines that a representative payee has misused any individual's benefit paid to such representative payee pursuant to this subsection or section

1631(a)(2), the Secretary shall promptly revoke certification for payment of benefits to such representative payee pursuant to this subsection and certify payment to an alternative representative payee or to the individual.".

(B) TITLE XVI.—

(i) IN GENERAL.—Section 1631(a)(2)(A) of such Act (42 U.S.C. 1383(a)(2)(A) is amended to read as follows:

"(2) PERSONS TO WHOM PAYMENTS MAY BE MADE.—

"(A) AUTHORITY TO MAKE PAYMENTS.—

"(i) PAYMENTS TO ELIGIBLE INDIVIDUALS.—Payments of the benefit of such individual may be made to any such individual or to the eligible spouse (if any) of such individual or partly to each.

"(ii) PAYMENTS TO REPRESENTATIVE PAYEES.—Upon a determination by the Secretary that the interest of such individual would be served today, or in the case of any individual or eligible spouse referred to in section 1611(e)(3)(A), such payments shall be made, regardless of the legal competency or incompetency of the individual or eligible spouse, to another individual who, or to a qualified organization (as defined in subparagraph (D)(ii)) which, is interested in or concerned with the welfare of such individual and with respect to whom the requirements of subparagraph (B) have been met (in this paragraph referred to as such individual's 'representative payee') for the use and benefit of the individual or eligible spouse.

"(iii) MISUES OF PAYMENTS.—If the Secretary or a court of competent jurisdiciton determines that the representative payee of an individual or eligible spouse has misused any benefits which have been paid to the representative payee pursuant to subclause (I) or section 205(j)(1), the Secretary shall promptly terminate payment of benefits to the representative payee pursuant to this subparagraph, and provide for payment of benefits to the individual or eligible spouse or to an alternative representative payee of the individual or eligible spouse.".

(ii) CONFORMING AMENDMENTS.—Section 1631(a)(2)(C) of such Act (42 U.S.C. 1383(a)(2)(C)) is amended—

(I) in clause (i), by striking "a peron other than the individual or spouse entitled to such payment" and inserting "representative payee of an individual or spouse";

(II) in clauses (ii), (iii), and (iv), by striking "other person to whom such payment is made" each place it appears and inserting "representative payee"; and

(III) in clause (v)—

(aa) by striking "person receiving payments on behalf of another" and inserting "representative payee"; and

(bb) by striking "person receiving such payments" and inserting "representative payee".

(2) PROCEDURE FOR SELECTING REPRESENTATIVE PAYEES.—

(A) IN GENERAL.—

(i) TITLE II.—Section 205(j)(2) of such Act (42 U.S.C. 405(j)(2)) is amended to read as follows:

"(2)(A) Any certification made under paragraph (1) for payment of benefits to an individual's representative payee shall be made on the basis of—

"(i) an investigation by the Secretary of the person to serve as representative payee, which shall be conducted in advance of such certification and shall, to the extent practicable, includce a face-to-face interview with the person to serve as representative payee, and

"(ii) adequate evidence that such certification is in the interest of such individual (as determined by the Secretary in regulations).

"(B)(i) As part of the investigation referred to in subparagraph (A)(i), the Secretary shall—

"(I) require the person being investigated to submit documented proof of the identity of such person, unless information establishing such identity has been submitted with an application for benefits under this title or title XVI,

"(II) verify such person's social security account number (or employer identification number),

"(III) determine whether such person has been convicted of a violation of section 208 or 1632, and

"(IV) determine whether certification of payment of benefits to such person has been revoked pursuant to this subsection or payment of benefits to such person has been terminated pursuant to section 1631(a)(2)(A)(ii)(II) by reason of misuse of funds paid as benefits under this title or title XVI.

"(ii) The Secretary shall establish and maintain 2 centralized files, which shall be updated periodically and which shall be in a form which renders them readily retrievable by each servicing office of the Social Security Administration. Such files shall consist of—

"(I) a list of the names and social security account numbers (or employer identification numbers) of all persons with respect to whom certification of payment of benefits has been revoked on or after January 1, 1991, pursuant to this subsection, or with respect to whom payment of benefits has been terminated on or after such date pursuant to section 1631(a)(2), by reason of misuse of funds paid as benefits under this title or title XVI, and

"(II) a list of the names and social security account numbers (or employer identification numbers) of all persons who have been convicted of a violation of section 208, 1107(a), 1128B, or 1632.

"(C)(i) Benefits of an individual may not be certified for payment to any other person pursuant to this subsection if—

"(I) such person has previously been convicted as described in subparagraph (B)(i)(III),

"(II) except as provided in clause (ii), certification of payment of benefits to such person under this subsection has previously been revoked as described in subparagraph (B)(i)(IV), or payment of benefits to such person pursuant to section 1631(a)(2)(A)(ii) has previously been terminated as described in section 1631(a)(2)(B)(ii)(I)(dd), or

"(III) except as provided in clause (iii), such person is a creditor of such individual who provides such individual with goods or services for consideration.

"(ii) The Secretary shall prescribe regulations under which the Secretary may grant exemptions to any person from the provisions of clause (i)(II) on a case-by-case basis if such exemption is in the best interest of the individual whose benefits would be paid to such person pursuant to this subsection.

"(iii) Clause (i)(III) shall not apply with respect to any person who is a creditor referred to therein if such creditor is—

"(I) a relative of such individual if such relative resides in the household of such individual,

"(II) a legal guardian or legal representative of such individual,

"(III) a facility that is licensed or certified as a care facility under the law of a State or a political subdivision of a State,

"(IV) a person who is an administrator, owner, or employee of a facility referred to in subclause (III) if such individual resides in such facility, and the certification of payment to such facility or such person is made only after good faith efforts have been made by the local servicing office of the Social Security Administration to locate an alternative representative payee to whom such certification of payment would serve the best interests of such individual, or

"(V) an individual who is determined by the Secretary, on the basis of written findings and under procedures which the Secretary shall prescribe by regulation, to be acceptable to serve as a representative payee.

"(iv) The procedures referred to in clause (iii)(V) shall require the individual who will serve as representative payee to establish, to the satisfaction of the Secretary, that—

"(I) such individual poses no risk to the beneficiary,

"(II) the financial relationship of such individual to the beneficiary poses no substantial conflict of interest, and

"(III) no other more suitable representative payee can be found.

"(D)(i) Subject to clause (ii), if the Secretary makes a determination described in the first sentence of paragraph (1) with respect to any individual's benefit and determines that direct payment of the benefit to the individual would cause substantial harm to the individual, the Secretary may defer (in the case of initial entitlement) or suspend (in the case of existing entitlement) direct payment of such benefit to the individual, until such time as the selection of a representative payee is made pursuant to this subsection.

"(ii)(I) Except as provided in subclause (II), any deferral or suspension of direct payment of a benefit pursuant to clause (i) shall be for a period of not more than 1 month.

"(II) Subclause (I) shall not apply in any case in which the individual is, as of the date of the Secretary's determination, legally incompetent or under the age of 15.

"(iii) Payment pursuant to this subsection of any benefits which are deferred or suspended pending the selection of a representative payee shall be made to the individual or the representative payee as a single sum or over such period of time as the

Secretary determines is in the best interest of the individual entitled to such benefits.

"(E)(i) Any individual who is dissatisfied with a determination by the Secretary to certify payment of such individual's benefit to a representative payee under paragraph (1) or with the designation of a particular person to serve as representative payee shall be entitled to a hearing by the Secretary to the same extent as is provided in subsection (b), and to judicial review of the Secretary's final decision as is provided in subsection (g).

"(ii) In advance of the certification of payment of an individual's benefit to a representative payee under paragraph (1), the Secretary shall provide written notice of the Secretary's initial determination to certify such payment. Such notice shall be provided to such individual, except that, if such individual—

"(I) is under the age of 15,

"(II) is an unemancipated minor under the age of 18, or

"(III) is legally incompetent,

then such notice shall be provided solely to the legal guardian or legal representative of such individual.

"(iii) Any such notice shall be clearly written in language that is easily understandable to the reader, shall identify the person to be designated as such individual's representative payee, and shall explain to the reader the right under clause (i) of such individual or such individual's legal guardian or legal representative—

"(I) to appeal a determination that a representative payee is necessary for such individual,

"(II) to appeal the designation of a particular person to serve as the representative payee of such individual, and

"(III) to review the evidence upon which such designation is based and submit additional evidence.".

(ii) TITLE XVI.—Section 1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)) is amended to read as follows:

"(B) SELECTION OF REPRESENTATIVE PAYEES.—

"(i) BASIS FOR SELECTION.—Any provision made under subparagraph (A) for payment of benefits to the representative payee of an individual or eligible spouse shall be made on the basis of—

"(I) an investigation by the Secretary of the person to serve as representative payee, which shall be conducted before such payment, and shall, to the extent practicable, include a face-to-face interview with the person; and

"(II) adequate evidence that such payment is in the interest of the individual or eligible spouse (as determined by the Secretary in regulations).

"(ii) ELEMENTS OF THE INVESTIGATION.—

"(I) IN GENERAL.—As part of the investigation referred to in clause (i)(I), the Secretary shall—

"(aa) require the person being investigated to submit documented proof of the identity of such person, unless information establishing such identity was submitted with an application for benefits under title II or this title;

"(bb) verify the social security account number (or employer identification number) of such person;

"(cc) determine whether such person has been convicted of a violation of section 208 or 1632; and

"(dd) determine whether payment of benefits to such person has been terminated pursuant to subparagraph (A)(ii)(II), and whether certification of payment of benefits to such person has been revoked pursuant to section 205(j), by reason of misuse of funds paid as benefits under title II or this title.

"(II) MAINTENANCE OF RECORDS.—The Secretary shall establish and maintain 2 centralized files, each of which shall be updated periodically and which shall be in a form which makes such files readily retrievable by each servicing office of the Social Security Administration, containing—

"(aa) a list of the names and social security account numbers (or employer identification numbers) of all persons with respect to whom payment of benefits has been terminated on or after January 1, 1991, pursuant to subparagraph (A)(ii)(II), or with respect to whom certification of payment of benefits has been revoked on or

after such date pursuant to section 205(j), by reason of misuse of funds paid as benefits under title II or this title; and

"(bb) a list of the names and social security account numbers (or employer identification numbers) of all persons who have been convicted of a violation of section 208, 1107(a), 1128B, or 1632.

"(iii) DISQUALIFICATIONS.—Benefits of an individual may not be paid to any other person pursuant to subparagraph (A)(ii) if—

"(I) such person has previously been convicted as described in clause (ii)(I)(cc);

"(II) except as provided in clause (iv), payment of benefits to such person pursuant to subparagraph (A)(ii) has previously been terminated as described in clause (ii)(I)(dd), or certification of payment of benefits to such person under section 215(j) has previously been revoked as described in section 215(j)(2)(B)(i)(IV); or

"(III) except as provided in clause (v), such person is a creditor of the individual who provides the individual with goods or services for consideration.

"(iv) REGULATORY EXEMPTIONS.—The Secretary shall prescribe regulations under which the Secretary may grant an exemption from clause (iii)(II) to any person on a case-by-case basis if such exemption would be in the best interest of the individual or eligible spouse whose benefits under this title would be paid to such person pursuant to subparagraph (A)(ii).

"(v) EXEMPTIONS FOR CERTAIN CREDITORS.—

"(I) IN GENERAL.—Clause (iii)(III) shall not apply to any person who is a creditor of the individual if the creditor is—

"(aa) a relative of the individual if such relative resides in the household of such individual;

"(bb) a legal guardian or legal representative of the individual;

"(cc) a facility that is licensed or certified as a care facility under the law of a State or a political subdivision of a State;

"(dd) a person who is an administrator, owner, or employee of a facility referred to in clause (cc) if the individual resides in the facility, and the payment of benefits under this title to the facility or the person is made only after good faith efforts have been made by the local servicing office of the Social Security Administration to locate an alternative representative payee ot whom the payment of such benefits would serve the best interests of the individual; or

"(ee) an individual who is determined by the Secretary, on the basis of written findings and under procedures which the Secretary shall prescribe by regulation, to be acceptable to serve as a representative payee.

"(II) PROCEDURES APPLICABLE TO EXEMPTION OF CERTAIN CREDITORS BY SECRETARY OF HHS.—The procedures referred to in subclause (I)(ee) shall require the individual who will serve as representative payee to establish, to the satisfaction of the Secretary, that—

"(aa) such individual poses no risk to the beneficiary;

"(bb) the financial relationship of such individual to the beneficiary poses no substantial conflict of interest; and

"(cc) no other more suitable representative payee can be found.

"(vi) DEFERRAL OF PAYMENTS IN CERTAIN CASES.—

"(I) IN GENERAL.—Subject to subclause (II), if the Secretary makes a determination described in subparagraph (A)(ii)(I) with respect to any individual's benefit and determines that direct payment of the benefit to the individual would cause substantial harm to the individual, the Secretary may defer (in the case of initial entitlement) or suspend (in the case of existing entitlement) direct payment of such benefit to the individual, until such time as the selection of a representative payee is made pursuant to this subparagraph.

"(II) MAXIMUM DEFERRAL PERIOD.—

"(aa) IN GENERAL.—Except as provided in subdivision (bb), any deferral or suspension of direct payment of a benefit pursuant to subclause (I) shall be for a period of not more than 1 month.

"(bb) EXCEPTIONS.—Subdivision (aa) shall not apply in any case in which the individual or eligible spouse is, as of the date of the Secretary's determination, legally incompetent or under the age 15 years.

"(vii) RESUMPTION OF PAYMENTS.—Payment pursuant to this subparagraph of any benefits which are deferred or suspended pending the selection of a representative payee shall be made—

"(I) to the representative payee upon such selection; and

"(II) as a single payment, or over such period as the Secretary determines is in the best interests of the individual entitled to such benefits.

"(viii) ADMINISTRATIVE AND JUDICIAL REVIEW.—

"(I) IN GENERAL.—Any individual who is dissatisfied with a determination by the Secretary under subparagraph (A)(ii) to pay such individual's benefits under this title to a representative payee, or with the selection of a particular person to be the representative payee of the individual, shall be entitled to a hearing by the Secretary, and to judicial review of the Secretary's final decision, to the same extent as is provided in subsection (c).

"(II) NOTICE TO PRECEDE FIRST PAYMENT TO REPRESENTATIVE PAYEE.—Before the first payment of individual's benefit to a representative payee under subparagraph (A)(ii), the Secretary shall provide written notice of the Secretary's initial determination to so make the payment. Such notice shall be provided to—

"(aa) the legal guardian or legal representative of the individual, if the individual has not attained the age of 15 years, is an unemancipated minor who has not attained the age of 18 years, or is legally incompetent, or

"(bb) the individual, in any other case.

"(III) CONTENTS OF NOTICE.—Any notice referred to in subclause (ii) shall be clearly written in language that is easily understandable to the reader, identify the person selected to be the representative payee of the individual, and explain to the reader the right under subclause (I) of the individual or the legal guardian or legal representative of the individual—

"(aa) to appeal a determination that a representative payee is necessary for the individual;

"(bb) to appeal the selection of a particular person to be the representative payee of the individual; and

"(cc) to review the evidence upon which the selection is based and submit additional evidence.".

(B) REPORT ON FEASIBILITY OF OBTAINING READY ACCESS TO CERTAIN CRIMINAL FRAUD RECORDS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation with the Attorney General of the United States and the Secretary of the Treasury, shall study the feasibility of establishing and maintaining a current list, which would be readily available to local offices of the Social Security Administration for use in investigations undertaken pursuant to section 205(j)(2) or 1631(a)(2)(B) of the Social Security Act, of the names and social security account numbers of individuals who have been convicted of a violation of section 495 of title 18, United States Code. The Secretary of Health and Human Services shall, not later than July 1, 1991, submit the results of such study, together with any recommendations, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(3) PROVISIONS FOR COMPENSATION OF QUALIFIED ORGANIZATIONS SERVING AS REPRESENTATIVE PAYEES.—

(A) IN GENERAL.—

(i) TITLE II.—Section 205(j) of such Act (42 U.S.C. 405(j)) is amended by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following new paragraph:

"(4)(A) A qualified organization may collect from an individual a monthly fee for expenses (including overhead) incurred by such organization in providing services performed as such individual's representative payee pursuant to this subsection if such fee does not exceed the lesser of—

"(i) 10 percent of the monthly benefit involved, or

"(ii) $25.00 per month.

Any agreement providing for a fee in excess of the amount permitted under this subparagraph shall be void and shall be treated as misuse by such organization of such individual's benefits.

"(B) For purposes of this paragraph, the term 'qualified organization' means any community-based nonprofit social service agency which is bonded or licensed in each

State in which it serves as a representative payee and which, in accordance with any applicable regulations of the Secretary—

"(i) regularly provides services as the representative payee, pursuant to this subsection or section 1631(a)(2), concurrently to 5 or more individuals, and

"(ii) demonstrates to the satisfaction of the Secretary that such agency is not otherwise a creditor of any such individual.

"(C) Any qualified organization which knowingly charges or collects, directly or indirectly, any fee in excess of the maximum fee prescribed under subparagraph (A) or makes any agreement, directly or indirectly, to charge or collect any fee in excess of such maximum fee, shall be fined in accordance with title 18, United States Code, or imprisoned not more than 6 months, or both.

"(D) This paragraph shall cease to be effective on January 1, 1994.".

(ii) TITLE XVI.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is amended—

(I) by redesignating subparagraph (D) as subparagraph (E);

(II) by moving subparagraph (C) 4 ems to the right; and

(III) by inserting after subparagraph (C) the following:

"(D) LIMITATION ON FEES OF QUALIFIED ORGANIZATIONS SERVING AS REPRESENTATIVE PAYEES.—

"(i) MAXIMUM FEES.—A qualified organization may collect from an individual a monthly fee for expenses (including overhead) incurred by such organization in providing services performed as such individual's representative payee pursuant to subparagraph (A)(ii) if the fee does not exceed the lesser of—

"(I) 10 percent of the monthly benefit involved, or

"(II) $25.00 per month.

Any agreement providing for a fee in excess of the amount permitted under this clause shall be void and shall be treated as misuse by the organization of the individual's benefits under this title.

"(ii) QUALIFIED ORGANIZATION DEFINED.—For purposes of this subparagraph, the term 'qualified organization' means any community-based nonprofit social service agency which—

"(I) is bonded or licensed in each State in which the agency serves as a representative payee; and

"(II) in accordance with any applicable regulations of the Secretary—

"(aa) regularly provides services as a representative payee pursuant to subparagraph (A)(ii) or section 205(j)(4) concurrently to 5 or more individuals; and

"(bb) demonstrates to the satisfaction of the Secretary that such person is not otherwise a creditor of any such individual.

"(iii) PROHIBITION; PENALTY.—Any qualified organization which knowingly charges or collects, directly or indirectly, any fee in excess of the maximum fee prescribed under clause (i) or makes any agreement, directly or indirectly, to charge or collect any fee in excess of such maximum fee, shall be fined in accordance with title 18, United States Code, or imprisoned not more than 6 months, or both.

"(iv) TERMINATION.—This subparagraph shall cease to be effective on January 1, 1994.".

(B) STUDIES AND REPORTS.—

(i) REPORT BY SECRETARY OF HEALTH AND HUMAN SERVICES.—Not later than January 1, 1993, the Secretary of Health and Human Services shall transmit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the number and types of qualified organizations which have served as representative payees and have collected fees for such service pursuant to any amendment made by subparagraph (A), and

(ii) REPORT BY COMPTROLLER GENERAL.—Not later than July 1, 1992, the Comptroller General of the United States shall conduct a study of the advantages and disadvantages of allowing qualified organizations serving as representative payees to charge fees pursuant to the amendments made by subparagraph (A) and shall transmit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the results of such study.

(4) STUDY RELATING TO FEASIBILITY OF SCREENING OF INDIVIDUALS WITH CRIMINAL RECORDS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a study of the

feasibility of determining the type of representative payee applicant most likely to have a felony or misdemeanor conviction, the suitability of individuals with prior convictions to serve as representative payees, and the circumstances under which such applicants could be allowed to serve as representative payees. The Secretary shall transmit the results of such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than July 1, 1992.

(5) EFFECTIVE DATES.—

(A) USE AND SELECTION OF REPRESENTATIVE PAYEES.—The amendments made by paragraphs (1) and (2) shall take effect January 1, 1991, and shall apply only with respect to—

(i) certifications of payment of benefits under title II of the Social Security Act to representative payees made on or after such date; and

(ii) provisions for payment of benefits under title XVI of such Act to representative payees made on or after such date.

(B) COMPENSATION OF REPRESENTATIVE PAYEES.—The amendments made by paragraph (3) shall take effect July 1, 1991, and the Secretary of Health and Human Services shall prescribe initial regulations necessary to carry out such amendments not later than such date.

(b) IMPROVEMENTS IN RECORDKEEPING AND AUDITING REQUIREMENTS.—

(1) IMPROVED ACCESS TO CERTAIN INFORMATION.—

(A) IN GENERAL.—Section 205(j)(3) of the Social Security Act is amended—

(i) by striking subparagraph (B);

(ii) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively;

(iii) in subparagraph (D) (as so redesignated), by striking "(A), (B), (C), and (D)" and inserting "(A), (B), and (C)"; and

(iv) by adding at the end the following new subparagraphs:

"(E) The Secretary shall maintain a centralized file, which shall be updated periodically and which shall be in a form which will be readily retrievable by each servicing office of the Social Security Administration, of—

"(i) The address and the social security account number (or employer identification number) of each representative payee who is receiving benefit payments pursuant to this subsection or section 1631(a)(2), and

"(ii) the address and social security account number of each individual for who each representative payee is reported to be providing services as representative payee pursuant to this subsection or section 1631(a)(2).

"(F) Each servicing office of the Administration shall maintain a list, which shall be updated periodically, of public agencies and community-based nonprofit social service agencies which are qualified to serve as representative payee pursuant to this subsection or section 1631(a)(2) and which are located in the area served by such servicing office.".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect October 1, 1992, and the Secretary of Health and Human Services shall take such actions as are necessary to ensure that the requirements of section 205(j)(3)(E) of the Social Security Act (as amended by subparagraph (A) of this paragraph) are satisfied as of such date.

(2) STUDY RELATING TO MORE STRINGENT OVERSIGHT OF HIGH-RISK REPRESENTATIVE PAYEES.—

(A) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a study of the need for a more stringent accounting system for high-risk representative payees than is otherwise generally provided under section 205(j)(3) or 1631(a)(C) of the Social Security Act, which would include such additional reporting requirements, record maintenance requirements, and other measures as the Secretary considers necessary to determine whether services are being appropriately provided by such payees in accordance with such sections 205(j) and 1631(a)(2).

(B) SPECIAL PROCEDURES.—In such study, the Secretary shall determine the appropriate means of implementing more stringent, statistically valid procedures for—

(i) reviewing reports which would be submitted to the Secretary under any system described in subparagraph (A), and

(ii) periodic, random audits of records which would be kept under such a system,

in order to identify any instances in which high-risk representative payees are misusing payments made pursuant to section 205(j) or 1631(a)(2) of the Social Security Act.

(C) HIGH-RISK REPRESENTATIVE PAYEE.—For purposes of this paragraph, the term "high-risk representative payee" means a representative payee under section 205(j) or 1631(a)(2) of the Social Security Act (other than a Federal or State institution) who—

(i) regularly provides concurrent services as a representative payee under such section 205(j), such section 1631(a)(2), or both such sections, for 5 or more individuals who are unrelated to such representative payee,

(ii) is neither related to an individual on whose behalf the payee is being paid benefits nor living in the same household with such individuals,

(iii) is a creditor of such individual, or

(iv) is in such other category of payees as the Secretary may determine appropriate.

(D) REPORT.—The Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study, together with any recommendations, not later than July 1, 1991. Such report shall include an evaluation of the feasibility and desirability of legislation implementing stricter accounting and review procedures for high-risk representative payees in all servicing offices of the Social Security Administration (together with proposed legislative language).

(3) DEMONSTRATION PROJECTS RELATING TO PROVISION OF INFORMATION TO LOCAL AGENCIES PROVIDING CHILD AND ADULT PROTECTIVE SERVICES.—

(A) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall implement a demonstration project under this paragraph in each of not fewer than 2 States. Under each such project, the Secretary shall enter into an agreement with the State in which the project is located to make readily available, for the duration of the project, to the appropriate State agency, a listing of addresses of multiple benefits recipients.

(B) LISTING OF ADDRESSES OF MULTIPLE BENEFIT RECIPIENTS.—The list referred to in subparagraph (A) shall consist of current list setting forth each address within the State at which benefits under title II, benefits under title XVI, or any combination of such benefits are being received by 5 or more individuals. For purposes of this subparagraph, in the case of benefits under title II, all individuals receiving benefits on the basis or the wages and self-employment income of the same individuals shall be counted as 1 individual.

(C) APPROPRIATE STATE AGENCY.—The appropriate State agency referred to in subparagrh (A) is the agency of the State which the Secretary determines is primarily responsible for regulating care facilities operated in such State or providing for child and adult protective services in such State.

(D) REPORT.—The Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning such demonstration projects, together with any recommendations, not later than July 1, 1992. Such report shall include an evaluation of the feasibility and desirability of legislation implementing the programs established pursuant to this paragraph on a permanent basis.

(E) STATE.—For purposes of this paragraph, the term "State" means a State, including the entities included in such term by section 210(h) of the Social Security Act (42 U.S.C. 410(h)).

(c) RESTITUTION.—

(1) TITLE II.—Section 205(j) of such Act (42 U.S.C. 405(j)) is amended by redesignating paragraph (5) (as so redesignated by subsection (a)(3)(A)(i) of this section) as paragraph (6) and by inserting after paragraph (4) (as added by subsection (a)(3)(A)(i)) the following new paragraph:

"(5) In cases where the negligent failure of the Secretary to investigate or monitor a representative payee results in misuse of benefits by the representative payee, the Secretary shall certify for payment to the beneficiary or the beneficiary's alternative representative payee an amount equal to such misused benefits. The Secretary shall make a good faith effort to obtain restitution from the terminated representative payee.".

(2) TITLE XVI.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is amended by redesignating subparagraph (E) (as so redesignated by subsection (a)(3)(A)(ii)(I) of this section) as subparagraph (F) and by inserting afer subparagraph (D) (as added by subsection (A)(3)(A)(i)(III) the following new subparagraph:

"(E) RESTITUTION.—In cases where the negligent failure of the Secretary to investigate or monitor a representative payee results in misuse of benefits by the representative payee, the Secretary shall make payment to the beneficiary or the beneficiary's representative payee of an amount equal to such misused benefits. The Secretary shall make a good faith effort to obtain restitution from the terminated representative payee.".

(d) REPORTS TO THE CONGRESS.—

(1) IN GENERAL.—

(A) TITLE II.—Section 205(j)(6) of the Social Security Act (as so redesignated by subsection (c) of this section) is amended to read as follows:

"(6) The Secretary shall include as a part of the annual report required under section 704 information with respect to the implementation of the preceding provisions of this subsection, including the number of cases in which the representative payee was changed, the number of cases discovered where there has been a misuse of funds, how any such cases were dealt with by the Secretary, the final disposition of such cases, including any criminal penalties imposed, and such other information as the Secretary determines to be appropriate.".

(B) TITLE XVI.—Section 1631(a)(2)(F) of the Social Security Act, as so redesignated by subsection (a)(3)(A)(ii)(I) of this section, is amended to read as follows:

"(F) INFORMATION REQUIRED TO BE INCLUDED IN SECTION 704 REPORT.—The Secretary shall include as a part of the annual report required under section 704 information with respect to the implementation of the preceding provisions of this paragraph, including—

"(i) the number of cases in which the representative payee was changed;

"(ii) the number of cases discovered where there has been a misuse of funds;

"(iii) how any such cases were dealt with by the Secretary;

"(iv) the final disposition of such cases (including any criminal penalties imposed); and

"(v) such other information as the Secretary determines to be appropriate.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to annual reports issued for years after 1990.

(3) FEASIBILITY STUDY REGARDING INVOLVEMENT OF DEPARTMENT OF VETERANS AFFAIRS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services, in cooperation with the Secretary of Veterans Affairs, shall conduct a study of the feasibility of legislation designating the Department of Veterans Affairs as the lead agency for purposes of selecting, appointing, and monitoring representative payees for those individuals who receive benefits paid under title II or XVI of the Social Security Act and benefits paid by the Department of Veterans Affairs. Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report setting forth the results of such study, together with any recommendations.

SEC. 2006. FEES FOR REPRESENTATION OF CLAIMANTS IN ADMINISTRATIVE PROCEEDINGS.

(a) IN GENERAL.—

(1) TITLE II.—Subsection (a) of section 206 of the Social Security Act (42 U.S.C. 406(a)) is amended—

(A) by inserting "(1)" after "(a)";

(B) in the fourth sentence, by striking "charged" and inserting "recovered"; and

(C) by striking the fifth sentence and all that follows through "Any person who" in the seventh sentence and inserting the following:

"(2)(A) In the case of a claim of entitlement to past-due benefits under this title, if—

"(i) an agreement between the claimant and another person regarding any fee to be recovered by such person to compensate such person for services with respect to the claim is presented in writing to the Secretary prior to the time of the Secretary's determination regarding the claim,

"(ii) the fee specified in the agreement does not exceed the lesser of—

"(I) 25 percent of the total amount of such past-due benefits (as determined before any applicable reduction under section 1127(a)), or

"(II) $4,000, and

"(iii) the determination is favorable to the claimant,

then the Secretary shall approve that agreement at the time of the favorable determination, and (subject to paragraph (3)) the fee specified in the agreement shall be the maximum fee. The Secretary may from time to time increase the dollar amount under clause (ii)(II) to the extent that the rate of increase in such amount, as determined over the period since January 1, 1991, does not at any time exceed the rate of increase in primary insurance amounts under section 215(i) since such date. The Secretary shall publish any such increased amount in the Federal Register.

"(B) For purposes of this subsection, the term 'past-due benefits' excludes any benefits with respect to which payment has been continued pursuant to section 223(g).

"(C) In the case of a claim with respect to which the Secretary has approved an agreement pursuant to subparagraph (A), the Secretary shall provide the claimant and the person representing the claimant a written notice of—

"(i) the dollar amount of the past-due benefits (as determined before any applicable reduction under section 1127(a)) and the dollar amount of the past-due benefits payable to the claimant,

"(ii) the dollar amount of the maximum fee which may be charged or recovered as determined under this paragraph, and

"(iii) a description of the procedures for review under paragraph (3).

"(3)(A) The Secretary shall provide by regulation for review of the amount which would otherwise be the maximum fee as determined under paragraph (2) if, within 15 days after receipt of the notice provided pursuant to paragraph (2)(C)—

"(i) the claimant, or the administrative law judge or other adjudicator who made the favorable determination, submits a written request to the Secretary to reduce the maximum fee, or

"(ii) the person representing the claimant submits a written request to the Secretary to increase the maximum fee.

Any such review shall be conducted after providing the claimant, the person representing the claimant, and the adjudicator with reasonable notice of such request and an opportunity to submit written information in favor of or in opposition to such request. The adjudicator may request the Secretary to reduce the maximum fee only on the basis of evidence of the failure of the person representing the claimant to represent adequately the claimant's interest or on the basis of evidence that the fee is clearly excessive for services rendered.

"(B)(i) In the case of a request for review under subparagraph (A) by the claimant or by the person representing the claimant, such review shall be conducted by the administrative law judge who made the favorable determination or, if the Secretary determines that such administrative law judge is unavailable or if the determination was not made by an administrative law judge, such review shall be conducted by another person designated by the Secretary for such purpose.

"(ii) In the case of a request by the adjudicator for review under subparagraph (A), the review shall be conducted by the Secretary or by an administrative law judge or other person (other than such adjudicator) who is designated by the Secretary.

"(C) Upon completion of the review, the administrative law judge or other person conducting the review shall affirm or modify the amount which would otherwise be the maximum fee. Any such amount so affirmed or modified shall be considered the amount of the maximum fee which may be recovered under paragraph (2). The decision of the administrative law judge or other person conducting the review shall not be subject to further review.

"(4)(A) Subject to subparagraph (B), if the claimant is determined to be entitled to past-due benefits under this title and the person representing the claimant is an attorney, the Secretary shall, notwithstanding section 205(i), certify for payment out of such past-due benefits (as determined before any applicable reduction under section 1127(a)) to such attorney an amount equal to the maximum fee, but not in excess of 25 percent of such past-due benefits (as determined before any applicable reduction under section 1127(a)).

"(B) The Secretary shall not in any case certify any amount for payment to the attorney pursuant to this paragraph before the expiration of the 15-day period referred to in paragraph (3)(A) or, in the case of any review conducted under paragraph (3), before the completon of such review.

"(5) Any person who".

(2) TITLE XVI.—Pargraph (2)(A) of section 1631(d) of the Social Security Act (42 U.S.C. 1383(d)(2)(A)) is amended to read as follows:

"(2)(A) The provisions of section 206(a) (other than paragraphs (2)(B) and (4) thereof) shall apply to this part to the same extent as they apply in the case of title II, and in so applying such provisions 'section 1631(g)' shall be substituted for 'section 1127(a)'.".

(b) PROTECTION OF ATTORNEY'S FEES FROM OFFSETTING SSI BENEFITS.—Subsection (a) of section 1127 of such Act is amended by adding at the end of the following new sentence: "A benefit under title II shall not be reduced pursuant to the preceding sentence to the extent that any amount of such benefit would not otherwise be available or payment in full of the maximum fee which may be recovered from such benefit by an attorney pursuant to section 206(a)(4).".

(c) LIMITATIONS OF TRAVEL EXPENSES FOR REPRESENTATION OF CLAIMANTS AT ADMINISTRATIVE PROCEEDINGS.—Section 201(j) (42 U.S.C. 401(j)), section 1631(h) (42 U.S.C. 1383(h)), and section 1817(i) (42 U.S.C 1395i(i)) of such Act are each amended by adding at the end the following new sentence: "The amount available for payment under this subsection for travel by a representative to attend an administrative proceeding before an administrative law judge or other adjudicator shall not exceed the maximim amount allowable under this subsection for such travel originating within the geographic area of the office having jurisdiction over such proceeding.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to determinations made on or after January 1, 1991, and to reimbursement for travel expenses incurred on or after January 1, 1991.

SEC. 2007. NOTICE REQUIREMENTS.

(a) REQUIREMENTS.—

(1) TITLE II.—Section 205 of the Social Security Act (42 U.S.C. 405) ia amended by inserting after subsection (r) the following new subsection:

"NOTICE REQUIREMENTS

"(s) The Secretary shall take such actions as are necessary to ensure that any notice to one or more individuals issued pursuant to this title by the Secretary or by a State agency—

"(1) is written in simple and clear language, and

"(2) includes the address and telephone number of the local office of the Social Security Administration which serves the recipient.

In the case of any such notice which is not generated by a local servicing office, the requirements of paragraph (2) shall be treated as satisfied if such notice includes the address of the local office of the Social Security Adminstration which services the recipient of the notice and a telephone number through which such office can be reached.".

(2) TITLE XVI.—Section 1631 of such Act (42 U.S.C. 1383) is amended by adding at the end the following:

"NOTICE REQUIREMENTS

"(n) The Secretary shall take such actions as are necessary to ensure that any notice to one or more individuals issued pursuant to this title by the Secretary or by a State agency—

"(1) is written in simple and clear language, and

"(2) includes the address and telephone number of the local office of the Social Security Administration which serves the recipient.

In the case of any such notice which is not generated by a local servicing office, the requirements of paragraph (2) shall be treated as satisfied if such notice includes the address of the local office of the Social Security Administration such services the recipient of the notice and a telephone number through which such office can be reached.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to notices issued on or after January 1, 1991.

SEC. 2008. APPLICABILITY OF ADMINISTRATIVE RES JUDICATA; RELATED NOTICE REQUIREMENTS.

(a) IN GENERAL.—

(1) TITLE II.—Section 205(b) of the Social Security Act (42 U.S.C. 405(b)) is amended by adding at the end the following new paragraph:

"(3)(A) A failure to timely request review of an initial adverse determination with respect to an application for any benefit under this title or an adverse de-

termination on reconsideration of such an initial determination shall not serve as a basis for denial of a subsequent application for any benefit under this title if the applicant demonstrates that the applicant, or any other individual referred to in paragraph (1), failed to so request such a review acting in good faith reliance upon incorrect, incomplete, or misleading information, relating to the consequences of reapplying for benefits in lieu of seeking review of an adverse determination, provided by any officer or employee of the Social Security Administration or any State agency acting under section 221.

"(B) In any notice of an adverse determination with respect to which a review may be requested under paragraph (1), the Secretary shall describe in clear and specific language the effect on possible entitlement to benefits under this title of choosing to reapply in lieu of requesting review of the determination.".

(2) TITLE XVI.—Section 1631(c)(1) of such Act (42 U.S.C. 1383(c)(1)) is amended—

(A) by inserting "(A)" after "(c)(1)"; and

(B) by adding at the end the following:

"(B)(A) A failure to timely request review of an initial adverse determination with respect to an application for any payment under this title or an adverse determination on reconsideration of such an initial determination shall not serve as a basis for denial of a subsequent application for any payment under this title if the applicant demonstrates that the applicant, or any other individual referred to in paragraph (1), failed to so request such a review acting in good faith reliance upon incorrect, incomplete, or misleading information, relating to the consequences of reapplying for payments in lieu of seeking review of an adverse determination, provided by an officer or employee of the Social Security Administration.

"(B) In any notice of an adverse determination with respect to which a review may be requested under paragraph (1), the Secretary shall describe in clear and specific language the effect on possible entitlement to payments under this title of choosing to reapply in lieu of requesting review of the determination.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to adverse determinations made on or after January 1, 1991.

SEC. 2009. TELEPHONE ACCESS TO THE SOCIAL SECURITY ADMINISTRATION

(a) REQUIRED MINIMUM LEVEL OF ACCESS TO LOCAL OFFICES.—In addition to such other access by telephone to offices of the Social Security Administration as the Secretary of Health and Human Services may consider appropriate, the Secretary shall maintain access by telephone to local offices of the Social Security Administration at the level of access generally available as of September 30, 1989.

(b) TELEPHONE LISTINGS.—The Secretary shall make such requests of local telephone utilities in the United States as are necessary to ensure that the listings subsequently maintained and published by such utilities for each locality include the address and telephone number for each local office of the Social Security Administration to which direct telephone access is reestablished under subsection (a) in such locality. With respect to any toll-free number maintained by the Social Security Administration, the required listing shall include the following statement: "For general information, call———", followed by the toll-free number.

(c) REPORT BY SECRETARY.—Not later than January 1, 1983, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report which—

(1) assesses the impact of the requirements established by this section on the Social Security Administration's allocation of resources, workload levels, and service to the public, and

(2) presents a plan for using new, innovative technologies to enhance access to the local offices of the Social Security Administration.

The plan described in paragraph (2) shall be directed at maintaining access by telephone to the offices of the Social Security Administration at a level which is at least as high as the level required under subsection (a).

(d) GAO REPORT.—The Comptroller General of the United States shall review the level of telephone access by the public to the local offices of the Social Security Administration. The Comptroller general shall file an interim report with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate describing such level of telephone access not later than 120 days after the date of the enactment of this Act and shall file a final report with such Committees describing such level of access not later than 210 days after such date.

(e) EFFECTIVE DATE.—The Secretary of Health and Human Services shall meet the requirements of subsections (a) and (b) as soon as possible after the date of the enactment of this Act but not later than 180 days after such date.

SEC. 2010. VOCATIONAL REHABILITATION DEMONSTRATION PROJECTS.

(a) DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Pursuant to section 505 of the Social Security Disability Amendments of 1980, the Secretary of Health and Human Services shall develop and carry out under this section demonstration projects in each of not fewer than three States. Each such demonstration project shall be designed to assess the advantages and disadvantages of permitting disabled beneficiaries (as defined in paragraph (3)) to select, from among both public and private qualified vocational rehabilitation providers, providers of vocational rehabilitation services directed at enabling such beneficiaries to engage in substantial gainful activity. Each such demonstration project shall commence as soon as practicable after the date of the enactment of this Act and shall remain in operation until the end of fiscal year 1993.

(2) SCOPE AND PARTICIPATION.—Each demonstration project shall be of sufficient scope and open to sufficient participation by disabled beneficiaries so as to permit meaningful determinations under subsection (b).

(3) DISABLED BENEFICIARY.—For purposes of this section, the term "disabled beneficiary" means an individual who is entitled to disability insurance benefits under section 223 of the Social Security Act or benefits under section 202 of such Act based on such individual's own disability.

(b) MATTERS TO BE DETERMINED.—In the course of each demonstration project conducted under this section, the Secretary shall determine the following:

(1) the extent to which disabled beneficiaries participate in the process of selecting providers of rehabilitation services, and their reasons for participating or not participating;

(2) notable characteristics of participating disabled beneficiaries (including their impairments), classified by the type of provider selected;

(3) the various needs for rehabilitation demonstrated by participating disabled beneficiaries, classified by the type of provider selected;

(4) the extent to which providers of rehabilitation services which are not agencies or instrumentalities of States accept referrals of disabled beneficiaries under procedures in effect under section 222(d) of the Social Security Act as of the date of the enactment of this Act relating to reimbursement for such services and the most effective way of reimbursing such providers in accordance with such provisions;

(5) the extent to which providers participating in the demonstration projects enter into contracts with third parties for services and the types of such services;

(6) whether, and if so the extent to which, disabled beneficiaries who select their own providers of rehabilitation services are more likely to engage in substantial gainful activity and thereby terminate their entitlement under section 202 or 223 of the Social Security Act than those who do not;

(7) the cost effectiveness of permitting disabled beneficiaries to select their providers of vocational rehabilitation services, and the comparative cost effectiveness of different types of providers; and

(8) the feasibility of establishing a permanent national program for allowing disabled beneficiaries to choose their own qualified vocational rehabilitation provider and any additional safeguards which would be necessary to assure the effectiveness of such a program.

(c) PROCEDURAL REQUIREMENTS.—

(1) SELECTION OF PARTICIPANTS.—The Secretary shall select for participation in each demonstration project under this section disabled beneficiaries for whom there is a reasonable likelihood that rehabilitation services provided to them will result in performance by them of substantial gainful activity for a continuous period of nine months prior to termination of the project.

(2) SELECTION OF PROVIDERS OF REHABILITATION SERVICES.—The Secretary shall select qualified rehabilitation agencies to serve as providers of rehabilitation services in the geographic area covered by each demonstration project conducted under this section. The Secretary shall make such selection after consultation with disabled individuals and organizations representing such individuals. With respect to each demonstration project, the Secretary may approve on a case-by-case basis additional qualified rehabilitation agencies from outside the geographic area covered by the project to serve particular disabled beneficiaries.

(3) REIMBURSEMENT OF PROVIDERS.—

(A) Except as provided in subparagraph (B), providers of rehabilitaiton services under each demonstration project under this section shall be reimbursed in accordance with the procedures in effect under the provisions of section 222(d) of the Social Security Act as of the date of the enactment of this Act relating to reimbursement for services provided under such section.

(B) The Secretary may contract with providers of rehabilitation services under each demonstration project under this section on a fee-for-service basis in order to—

(i) conduct vocational evaluations directed at identifying those disabled beneficiaries who have reasonable potential for engaging in substantial gainful activity and thereby terminating their entitlement to benefits under section 202 or 223 of the Social Security Act if provided with vocational rehabilitation services as participants in the project, and

(ii) develop jointly with each disabled beneficiary so identified an individualized, written rehabilitation program.

(C) Each written rehabilitation program developed pursuant to subparagraph (B)(ii) for any participant shall include among its provisions—

(i) a statement of the participant's rehabilitation goal,

(ii) a statement of the specific rehabilitation services to be provided and of the identity of the provider to furnish such services,

(iii) the projected date for the initiation of such services and their anticipated duration, and

(iv) objective criteria and an evaluation procedure and schedule for determining whether the stated rehabilitation goal is being achieved.

(d) REPORTS.—The Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate an interim written report on the progress of the demonstration projects conducted under this section not later than April 1, 1992, together with any related data and materials which the Secretary considers appropriate. The Secretary shall submit a final written report to such Committees addressing the matters to be determined under subsection (b) not later than April 1, 1994.

(e) STATE.—For purposes of this section, the term "State" means a State, including the entities included in such term by section 210(h) of the Social Security Act (42 U.S.C. 410(h)).

(f) CONTINUATION OF DEMONSTRATION AUTHORITY.—Section 505(c) of the Social Security Disability Amendments of 1980 (42 U.S.C. 1310) is amended to read as follows:

"(c) The Secretary shall submit to the Congress a final report with respect to all experiments and demonstration projects carried out under this section (other than demonstration projects conducted under section 2010 of the Technical and Miscellaneous Social Security Act Amendments of 1990) no later than October 1, 1993."

(g) NEW SPENDING AUTHORITY.—Any new spending authority provided by this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 2011. EXEMPTION FOR CERTAIN ALIENS RECEIVING AMNESTY UNDER THE IMMIGRATION AND NATIONALITY ACT FROM PROSECUTION FOR MISREPORTING OF EARNINGS OR MISUSE OF SOCIAL SECURITY ACCOUNT NUMBERS OR SOCIAL SECURITY CARDS.

(a) IN GENERAL.—Section 208 of the Social Security Act (42 U.S.C. 408) is amended by adding at the end the following:

"(d)(1) Except as provided in paragraph (2), an alien—

"(A) whose status is adjusted to that of lawful temporary resident under section 210 or 245A of the Immigration and Nationality Act or under section 902 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989,

"(B) whose status is adjusted to that of permanent resident—

"(i) under section 202 of the Immigration Reform and Control Act of 1986, or

"(ii) pursuant to section 249 of the Immigration and Nationality Act, or

"(C) who is granted special immigrant status under section 101(a)(27)(I) of the Immigration and Nationality Act,

shall not be subject to prosecution for any alleged conduct described in paragraph (6) or (7) of subsection (a) if such conduct is alleged to have occurred prior to 60 days after the date of the enactment of the Technical and Miscellaneous Social Security Act Amendments of 1990.

"(2) Paragraph (1) shall not apply with respect to conduct (described n subsection (a)(7)(C)) consisting of—

"(A) selling a card that is, or purports to be, a social security card issued by the Secretary,

"(B) possessing a social security card with intent to sell it, or

"(C) counterfeiting a social security card with intent to sell it.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—So much of section 208 of such Act as precedes subsection (d) (as added by subsection (a) of this section) is amended—

(1) in subsection (a), by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) in subsection (g), by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(3) by redesignating subsections (a) through (h) as paragraphs (1) through (8), respectively;

(4) by inserting "(a)" before "Whoever";

(5) by inserting "(b)" at the beginning of the next-to-last undesignated paragraph; and

(6) by inserting "(c)" at the beginning of the last undesignated paragraph.

SEC. 2012. REDUCTION OF AMOUNT OF WAGES NEEDED TO EARN A YEAR OF COVERAGE APPLICABLE IN DETERMINING SPECIAL MINIMUM PRIMARY INSURANCE AMOUNT.

(a) IN GENERAL.—Section 215(a)(1)(C)(ii) of the Social Security Act (42 U.S.C. 415(a)(1)(C)(ii)) is amended by striking "of not less than 25 percent" the first place it appears and all that follows through "1977) if" and inserting "of not less than 25 percent (in the case of a year after 1950 and before 1978) of the maximum amount which (pursuant to subsection (e)) may be counted for such year, or 25 percent (in the case of a year after 1977 and before 1991) or 15 percent (in the case of a year after 1990) of the maximum amount which (pursuant to subsection (e)) could be counted for such year if".

(b) RETENTION OF CURRENT AMOUNT OF WAGES NEEDED TO EARN A YEAR OF COVERAGE FOR PURPOSES OF WINDFALL ELIMINATION PROVISION.—Section 215(a)(7)(D) of such Act (42 U.S.C. 415(a)(7)(D) is amended—

(1) in the first sentence, by striking "(as defined in paragraph (1)(C)(ii))"; and

(2) by adding at the end (after the table) the following new flush sentence: "For purposes of this subparagraph, the term 'year of coverage' shall have the meaning provided in paragraph (1)(C)(ii), except that the refrence to '15 percent' therein shall be deemed to be a reference to '25 percent'.".

SEC. 2013. ELIMINATION OF ELIGIBILITY FOR RETROACTIVE BENEFITS FOR CERTAIN INDIVIDUALS ELIGIBLE FOR REDUCED BENEFITS.

(a) IN GENERAL.—Section 202(j)(4) of the Social Security Act (42 U.S.C. 402(j)(4)) is amended—

(1) in subparagraph (A), by striking "if the effect" and all that follows and inserting "if the amount of the monthly benefit to which such individual would otherwise be entitled for any such month would be subject to reduction pursuant to subsection (q)."; and

(2) in subparagraph (B), by striking clauses (i) and (iv) and by redesignating clauses (ii), (iii), and (v) as clauses (i), (ii), and (iii), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to applications for benefits filed on or after January 1, 1991.

SEC. 2014. CHARGING OF EARNINGS OF CORPORATE DIRECTORS.

(a) IN GENERAL.—

(1) Title II of the Social Security Act is amended by moving the last undesignated paragraph of section 211(a) of such title (as added by section 9022(a) of the Omnibus Budget Reconciliation Act of 1987) to the end of section 203(f)(5) of such title.

(2) The undesignated paragraph moved to section 203(f)(5) of the Social Security Act by paragraph (1) is amended—

(A) by striking "Any income of an individual which results from or is attributable to" and inserting "(E) For purposes of this section, any individual's net earnings from self-employment which result from or are attributable to",

(B) by striking "the income is actually paid" and inserting "the income, on which the computation of such net earnings from self-employment is based, is actually paid"; and

(C) by striking "unless it was" and inserting "unless such income was".

(3) The last undesignated paragraph of section 1402(a) of the Internal Revenue Code of 1986 (as added by section 9022(b) of the Omnibus Budget Reconciliation Act of 1987) is repealed.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services performed in taxable years begining after December 31, 1990.

SEC. 2015. COLLECTION OF EMPLOYEE SOCIAL SECURITY AND RAILROAD RETIREMENT TAXES ON TAXABLE GROUP-TERM LIFE INSURANCE PROVIDED TO RETIREES.

(a) SOCIAL SECURITY TAXES.—Section 3102 of the Internal Revenue Code of 1986 (relating to deduction of tax from wages) is amended by adding at the end thereof the following new subsection:

"(d) SPECIAL RULE FOR CERTAIN TAXABLE GROUP-TERM LIFE INSURANCE BENEFITS.—

"(1) IN GENERAL.—In the case of any payment for group-term life insurance to which this subsection applies—

"(A) subsection (a) shall not apply,

"(B) the employer shall separately include on the statement required under section 6051—

"(i) the portion of the wages which consists of payments for group-term life insurance to which this subsection applies, and

"(ii) the amount of the tax imposed by section 3101 on such payments, and

"(C) the tax imposed by section 3101 on such payments shall be paid by the employee.

"(2) BENEFITS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any payment for group-term life insurance to the extent—

"(A) such payment constitutes wages, and

"(B) such payment is for coverage for periods during which an employment relationship no longer exists between the employee and the employer.".

(b) RAILROAD RETIREMENT TAXES.—Section 3202 of such Code (relating to deduction of tax from compensation) is amended by adding at the end thereof the following new subsection:

"(d) SPECIAL RULE FOR CERTAIN TAXABLE GROUP-TERM LIFE INSURANCE BENEFITS.—

"(1) IN GENERAL.—In the case of any payment for group-term life insurance to which this subsection applies—

"(A) subsection (a) shall not apply,

"(B) the employer shall separately include on the statement required under section 6051—

"(i) the portion of the compensation which consists of payments for group-term life insurance to which this subsection applies, and

"(ii) the amount of the tax imposed by section 3201 on such payments, and

"(C) the tax imposed by section 3201 on such payments shall be paid by the employee.

"(2) BENEFITS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any payment for group-term life insurance to the extent—

"(A) such payment constitutes compensation, and

"(B) such payment is for coverage for periods during which an employment relationship no longer exists between the employee and the employer.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to coverage provided after December 31, 1990.

SEC. 2016. CONSOLIDATION OF OLD METHODS OF COMPUTING PRIMARY INSURANCE AMOUNT.

(a) CONSOLIDATION OF COMPUTATION METHODS.—

(1) IN GENERAL.—Section 215(a)(5) of the Social Security Act (42 U.S.C. 415(a)(5)) is amended—

(A) by striking "For purposes of" and inserting "(A) Subject to subparagraphs (B), (C), (D) and (E), for purposes of ";

(B) by striking the last sentence; and

(C) by adding at the end the following new subparagraphs:

"(B)(i) Subject to clauses (ii), (iii), and (iv), and notwithstanding any other provision of law, the primary insurance amount of any individual described in subparagraph (C) shall be in lieu of the primary insurance amount as computed pursuant to any of the provisions referred to in subparagraph (D), the primary insurance

amount computed under subsection (a) of section 215 as in effect in December 1978, without regard to subsection (b)(4) and (c) of such section as so in effect.

"(ii) The computation of a primary insurance amount under this subparagraph shall be subject to section 104(j)(2) of the Social Security Amendments of 1972 (relating to the number of elapsed years under section 215(b)).

"(iii) In computing a primary insurance amount under this subparagraph, the dollar amount specified in paragraph (3) of section 215(a) (as in effect in December 1978) shall be increased to $11.50.

"(iv) In the case of an individual to whom section 215(d) applies, the primary insurance amount of such individual shall be the greater of—

"(I) the primary insurance amount computed under the preceding clauses of this subparagraph, or

"(II) the primary insurance amount computed under section 215(d).

"(C) An individual is described in this subparagraph if—

"(i) paragraph (1) does not apply to such individual by reason of such individual's eligibility for an old-age or disability insurance benefit, or the individual's death, prior to 1979, and

"(ii) such individual's primary insurance amount computed under this section as in effect immediately before the date of the enactment of the Technical and Miscellaneous Social Security Act Amendments of 1990 would have been computed under the provisions described in subparagraph (D).

"(D) The provisions described in this subparagraph are—

"(i) the provisions of this subsection as in effect prior to the enactment of the Social Security Amendments of 1965, if such provisions would preclude the use of wages prior to 1951 in the computation of the primary insurance amount,

"(ii) the provisions of section 209 as in effect prior to the enactment of the Social Security Amendments of 1950, and

"(iii) the provisions of section 215(d) as in effect prior to the enactment of the Social Security Amendments of 1977.

"(E) For purposes of this paragraph, the table for determining primary insurance amounts and maximum family benefits contained in this section in December 1978 shall be revised as provided by subsection (i) for each year after 1978.".

(2) COMPUTATION OF PRIMARY INSURANCE BENEFIT UNDER 1939 ACT.—

(A) DIVISION OF WAGES BY ELAPSED YEARS.—Section 215(d)(1) of such Act (42 U.S.C. 415(d)(1)) is amended—

(i) in subparagraph (A), by inserting "and subject to section 104(j)(2) of the Social Security Amendments of 1972" after "thereof"; and

(ii) by striking "(B) For purposes" in subparagraph (B) and all that follows through clause (ii) of such subparagraph and inserting the following:

"(B) For purposes of subparagraphs (B) and (C) of subsection (b)(2) (as so in effect)—

"(i) the total wages prior to 1951 (as defined in subparagraph (C) of this paragraph) of an individual—

"(I) shall, in the case of an individual who attained age 21 prior to 1950, be divided by the number of years (hereinafter in this subparagraph referred to as the 'divisor') elapsing after the year in which the individual attained age 20, or 1936 if later, and prior to the earlier of the year of death or 1951, except that such divisor shall not include any calendar year entirely included in a period of disability, and in no case shall the divisor be less than one, and

"(II) shall, in the case of an individual who died before 1950 and before attaining age 21, be divided by the number of year (hereinafter in this subparagraph referred to as the 'divisor') elapsing after the second year prior to the year of death, or 1936 if later, and prior to the year of death, and in no case shall the divisor be less than one; and

"(ii) the total wages prior to 1951 (as defined in subparagraph (C) of this paragraph) of an individual who either attained age 21 after 1949 or died after 1949 before attaining age 21, shall be divided by the number of years (hereinafter in this subparagraph referred to as the 'divisor') elapsing after 1949 and prior to 1951.".

(B) CREDITING OF WAGES TO YEARS.—Clause (iii) of section 215(d)(1)(B) of such Act (42 U.S.C. 415(d)(1)(B)(iii)) is amended to read as follows:

"(iii) if the quotient exceeds $3,000, only $3,000 shall be deemed to be the individual's wages for each of the years which were used in computing the amount of the divisor, and the remainder of the individual's total wages prior to 1951 (I) if less than $3,000, shall be deemed credited to the compu-

tation base year (as defined in subsection (b)(2) as in effect in December 1977) immediately preceding the earliest year used in computing the amount of the divisor, or (II) if $3,000 or more, shall be deemed credited, in $3,000 increments, to the computation base year (as so defined) immediately preceding the earliest year used in computing the amount of the divisor and to each of the computation base years (as so defined) consecutively preceding that year, with any remainder less than $3,000 being credited to the computation base year (as so defined) immediately preceding the earliest year to which a full $3,000 increment was credited; and".

(C) APPLICABILITY.—Section 215(d) of such Act is further amended—

(i) in paragraph (2)(B), by striking "except as provided in paragraph (3),";

(ii) by striking paragraph (2)(C) and inserting the following:

"(C)(i) who becomes entitled to benefits under section 202(a) or 223 or who dies, or

"(ii) whose primary insurance amount is required to be recomputed under paragraph (2), (6), or (7) of subsection (f) or under section 231."; and

(iii) by striking paragraphs (3) and (4).

(3) CONFORMING AMENDMENTS.—

(A) Section 215(i)(4) of such Act (42 U.S.C. 415(i)(4)) is amended in the first sentence by inserting "and as amended by section 2016 of the Technical and Miscellaneous Social Security Act Amendments of 1990" after "as then in effect".

(B) Section 203(a)(8) of such Act (42 U.S.C. 403(a)(8)) is amended in the first sentence by inserting "and as amended by section 2016 of the Technical and Miscellaneous Social Security Act Amendments of 1990," after "December 1978" the second place it appears.

(C) Section 215(c) of such Act (42 U.S.C. 415(c)) is amended by striking "This" and inserting "Subject to the amendments made by section 2016 of the Technical and Miscellaneous Social Security Act Amendments of 1990, this".

(D) Section 215(f)(7) of such Act (42 U.S.C. 415(f)(7)) is amended by striking the period at the end of the first sentence and inserting ", including a primary insurance amount computed under any such subsection whose operation is modified as a result of the amendments made by section 2016 of the Technical and Miscellaneous Social Security Act Amendments of 1990.".

(E)(i) Section 215(d) of such Act (42 U.S.C. 415(d)) is amended by redesignating paragraph (5) as paragraph (3).

(ii) Subsections (a)(7)(A), (a)(7)(C)(ii), and (f)(9)(A) of section 215 of such Act (42 U.S.C. 415) are each amended by striking "subsection (d)(5)" each place it appears and inserting "subsection (d)(3)".

(iii) Section 215(f)(9)(B) of such Act (42 U.S.C. (f)(9)(B)) is amended by striking "subsection (a)(7) or (d)(5)" each place it appears and inserting "subsection (a)(7) or (d)(3)".

(4) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply with respect to the computation of the primary insurance amount of any insured individual in any case in which a person becomes entitled to benefits under section 202 or 223 on the basis of such insured individual's wages and self-employment income for months after the 18-month period following the month in which this Act is enacted, except that such amendments shall not apply if any person is entitled to benefits based on the wages and self-employment income of such insured individual for the month preceding the initial month of such person's entitlement of such benefits under section 202 or 223.

(B) RECOMPUTATIONS.—The amendments made by this subsection shall apply with respect to any primary insurance amount upon the recomputation of such primary insurance amount if such recomputation is first effective for monthly benefits for months after the 18-month period following the month in which this Act is enacted.

(b) BENEFITS IN CASE OF VETERANS.—Section 217(b) of such Act (42 U.S.C. 417(b)) is amended—

(1) in the first sentence of paragraph (1), by striking "Any" and inserting "Subject to paragraph (3), any"; and

(2) by adding at the end the following new paragraph:

"(3)(A) The preceding provisions of this subsection shall apply for purposes of determining the entitlement to benefits under section 202, based on the primary insur-

ance amount of the deceased World War II veteran, of any surviving individual only if such surviving individual makes application for such benefits before the end of the 18-month period after the month in which the Technical and Miscellaneous Social Security Act Amendments of 1990 was enacted.

"(B) Subparagraph (A) shall not apply if any person is entitled to benefits under section 202 based on the primary insurance amount of such veteran for the month preceding the month in which such application is made.".

(c) APPLICABILITY OF ALTERNATIVE METHOD FOR DETERMINING QUARTERS OF COVERAGE WITH RESPECT TO WAGES IN THE PERIOD FROM 1937 TO 1950.—

(1) APPLICABILITY WITHOUT REGARD TO NUMBER OF ELAPSED YEARS.—Section 213(c) of such Act (42 U.S.C. 413(c)) is amended—

(A) by inserting "and 215(d)" after "214(a)"; and

(B) by striking "except where—" and all that follows and inserting the following: "except where such individual is not a fully insured individual on the basis of the number of quarters of coverage so derived plus the number of quarters of coverage derived from the wages and self-employment income credited to such individual for periods after 1950.".

(2) APPLICABILITY WITHOUT REGARD TO DATE OF DEATH.—Section 155(b)(2) of the Social Security Amendments of 1967 is amended by striking "after such date".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply only with respect to individuals who—

(A) make application for benefits under section 202 of the Social Security Act after the 18-month period following the month in which this Act is enacted, and

(B) are not entitled to benefits under section 227 or 228 of such Act for the month in which such application is made.

SEC. 2017. SUSPENSION OF DEPENDENT'S BENEFITS WHEN THE WORKER IS IN AN EXTENDED PERIOD OF ELIGIBILITY.

(a) IN GENERAL.—Section 223(e) of the Social Security Act is amended by—

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end the following new paragraph:

"(2) No benefit shall be payable under section 202 on the basis of the wages and self-employment income of an individual entitled to a benefit under subsection (a)(1) of this section for any month for which the benefit of such individual under subsection (a)(1) is not payable under paragraph (1).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to benefits for months after the date of the enactment of this Act.

SEC. 2018. TIER I RAILROAD RETIREMENT TAX RATES EXPLICITLY DETERMINED BY REFERENCE TO SOCIAL SECURITY TAXES.

(a) TAX ON EMPLOYEES.—Subsection (a) of section 3201 of the Internal Revenue Code of 1986 (relating to rate of tax) is amended—

(1) by striking "following" and inserting "applicable", and

(2) by striking "employee:" and all that follows and inserting "employee. For purposes of the preceding sentence, the term 'applicable percentage' means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3101 for the calendar year."

(b) TAX ON EMPLOYEE REPRESENTATIVES.—Paragraph (1) of section 3211(a) of such Code (relating to rate of tax) is amended—

(1) by striking "following" and inserting "applicable", and

(2) by striking "representative:" and all that follows and inserting "representative. For purposes of the preceding sentence, the term 'applicable percentage' means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3101 and subsections (a) and (b) of section 3111 for the calendar year."

(c) TAX ON EMPLOYERS.—Subsection (a) of section 3221 of such Code (relating to rate of tax) is amended—

(1) by striking "following" and inserting "applicable", and

(2) by striking "employer:" and all that follows and inserting "employer. For purposes of the preceding sentence, the term 'applicable percentage' means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3111 for the calendar year."

SEC. 2019. TRANSFER TO RAILROAD RETIREMENT ACCOUNT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended by striking "1990" and inserting "1992".

35-174 0 - 90 - 2

SEC. 2020. WAIVER OF 2-YEAR WAITING PERIOD FOR INDEPENDENT ENTITLEMENT TO DIVORCED SPOUSE'S BENEFITS.

(a) WAIVER FOR PURPOSES OF DEDUCTIONS ON ACCOUNT OF WORK.—Section 203(b)(2) of the Social Security Act (42 U.S.C. 403(b)(2) is amended—

(1) by striking "(2) When" and all that follows through "2 years, the benefit" and inserting the following:

"(2)(A) Except as provided in subparagraph (B), in any case in which—

"(i) any of the other persons referred to in paragraph (1)(B) is entitled to monthly benefits as a divorced spouse under section 202 (b) or (c) for any month, and

"(ii) such person has been divorced for not less than 2 years,

the benefit"; and

(2) by adding at the end the following new subparagraph:

"(B) Clause (ii) of subparagraph (A) shall not apply with respect to any divorced spouse in any case in which the individual referred to in paragraph (1) became entitled to old-age insurance benefits under section 202(a) before the date of the divorce.".

(b) WAIVER IN CASE OF NONCOVERED WORK OUTSIDE THE UNITED STATES.—Section 203(d)(1)(B) of such Act (42 U.S.C. 403(d)(1)(B)) is amended—

(1) by striking "(B) When" and all the follows through "2 years, the benefit" and inserting the following:

"(B)(i) Except as provided in clause (ii), in any case in which—

"(I) a divorced spouse is entitled to monthly benefits under section 202(b) or (c) for any month, and

"(II) such divorced spouse has been divorced for not less than 2 years,

the benefit"; and

(2) by adding at the end the following new clause:

"(ii) Subclause (II) of clause (i) shall not apply with respect to any divorced spouse in any case in which the individual entitled to old-age insurance benefits referred to in subparagraph (A) became entitled to such benefits before the date of the divorce.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits for months after December 1990.

SEC. 2021. MODIFICATION OF THE PREEFFECTUATION REVIEW REQUIREMENT APPLICABLE TO DISABILITY INSURANCE CASES.

(a) IN GENERAL.—Section 221(c)(3) of the Social Security Act (42 U.S.C. 421(c)(3)) is amended to read as follows:

"(3)(A) In carrying out the provisions of paragraph (2) with respect to the review of determinations made by State agencies pursuant to this section that individuals are under disabilities (as defined in section 216(i) or 223(d)), the Secretary shall review—

"(i) at least 50 percent of all such determinations made by State agencies on applications for benefits under this title, and

"(ii) other determinations made by State agencies pursuant to this section to the extent necessary to assure a high level of accuracy in such other determinations.

"(B) In conducting reviews pursuant to subparagraph (A), the Secretary shall, to the extent feasible, select for review those determinations which the Secretary identifies as being the most likely to be incorrect.

"(C) Not later than April 1, 1992, and annually thereafter, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report setting forth the number of reviews conducted under subparagraph (A)(ii) during the preceding fiscal year and the findings of the Secretary based on such reviews of the accuracy of the determinations made by State agencies pursuant to this section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to determinations made by State agencies in fiscal years after fiscal year 1990.

SEC. 2022. ADJUSTMENTS IN EXEMPT AMOUNT FOR PURPOSES OF THE RETIREMENT TEST.

(a) INCREASE IN EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.—Section 203(f)(8)(D) of the Social Security Act (42 U.S.C. 403(f)(8)(D)) is amended to read as follows:

"(D)(i) Notwithstanding any other provision of this subsection, the exempt amount which is applicable to an individual who has attained retirement age (as defined in section 216(l)) before the close of the taxable year involved—

"(I) shall be the amount which would be determined under this paragraph for each month of any taxable year ending after 1992 and before 1994

if section 2022 of the Technical and Miscellaneous Social Security Act Amendments of 1990 had not been enacted, plus $150.00, and

"(II) shall be the amount which would be determined under this paragraph for each month of any taxable year ending after 1993 and before 1995 if such section 2022 had not been enacted, plus $220.00.

"(ii) For purposes of subparagraph (B)(ii)(II), the increase in the exempt amount provided under clause (i)(II) shall be deemed to have resulted from a determination which shall be deemed to have been made under subparagraph (A) in 1993.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to taxable years ending after 1992.

SEC. 2023. EARNINGS IN YEARS AFTER ATTAINING AGE 69 DISREGARDED FOR PURPOSES OF BENEFIT RECOMPUTATION EXCEPT TO COMPENSATE FOR YEARS OF ZERO EARNINGS.

(a) IN GENERAL.—Section 215(f) of the Social Security Act (42 U.S.C. 415(f)) is amended by adding at the end the following new subsection:

"(10)(A) Except as provided in subparagraph (B), in making any recomputation of benefits provided for in this subsection (or this subsection as in effect in December 1978), any individual's wages or self-employment income for a year after such individual attains age 69 shall not be taken into account.

"(B)(i) Subject to clause (ii), subparagraph (A) shall not apply with respect to an individual's wages and self-employment income for any year to the extent that such individual's benefit computation years include a year for which no wages and self-employment income are credited to such individual.

"(ii) Clause (i) shall apply in the case of any individual only if the year for which such individual is credited with wages or self-employment income after such individual attains age 69 would be substituted in the recomputation under this section for a benefit computation year in which no wages or self-employment income have been credited previously to such individual."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to recomputations of benefits on the basis of wages and self-employment income for years after 1990.

SEC. 2024. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) IN GENERAL.—

(1) AMENDMENT RELATING TO SECTION 7088 OF PUBLIC LAW 100-690.—Section 208 of the Social Security Act (42 U.S.C. 408) is amended, in the last undesignated paragraph, by striking "section 405(c)(2) of this title" and inserting "section 205(c)(2)".

(2) AMENDMENTS RELATING TO SECTION 322 OF PUBLIC LAW 98-21.—Paragraphs (1) and (2) of section 322(b) of the Social Security Amendments of 1983 (Public Law 98-21, 97 Stat. 121) are each amended by inserting "the first place it appears" before "the following".

(3) AMENDMENT RELATING TO SECTION 1011B(b)(4) OF PUBLIC LAW 100-647.—Section 211(a) of the Social Security Act (42 U.S.C. 411(a)) is amended by redesignating the second paragraph (14) as paragraph (15).

(4) AMENDMENT RELATING TO SECTION 2003(d) OF PUBLIC LAW 100-647.—Paragraph (3) of section 3509(d) of the Internal Revenue Code of 1986 (as amended by section 2003(d) of the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100-647; 102 Stat. 3598)) is further amended by striking "subsection (d)(4)" and inserting "subsection (d)(3)".

(5) AMENDMENT RELATING TO SECTION 10208 OF PUBLIC LAW 101-239.—Section 209(a)(7)(B) of the Social Security Act (42 U.S.C. 409(a)(7)(B)) is amended by striking "subparagraph (B)" in the matter following clause (ii) and inserting "clause (ii)".

(b) EFFECTIVE DATES.—The amendments made by subsection (a) shall be effective as if included in the enactment of the provision to which it relates.

I. Introduction

A. Purpose and Scope

Human Resources

The Technical and Miscellaneous Social Security Act Amendments of 1990 are designed to make necessary but minor improvements in many of the human resource programs that fall within the jurisdiction of the Subcommittee on Human Resources. The bill includes provisions of current law that have expired or will do so prior to the adjournment of the 101st Congress, no- and low-cost legislative changes requested by the Bush Administration, and minor, no cost and technical amendments that correct errors or inequities in existing statutes.

Social Security

Title II of the Technical and Miscellaneous Social Security Act Amendments of 1990 contains provisions necessary to streamline and enhance the services provided by the Social Security Administration. In addition, the bill includes provisions to increase certain benefits. Furthermore, the bill includes several provisions to make technical corrections in the Social Security Act and the Railroad Retirement Act.

Health

The bill includes a number of changes in the Medicare program to resolve pressing administrative and policy issues.

Among the no-cost items, the bill would provide important protections to Medicare beneficiaries with the patient self-determination provisions and with Medigap provisions.

The bill would allow modest increases in payments for certain services that have not had sufficient adjustments over the past several years. The bill would provide increases for community health centers and rural clinics, end stage renal disease facilities and

nurse anesthetists. Partial hospitalization services would be covered in community mental health centers. The bill corrects policy regarding the exclusion of the cost of certain nursing programs from reimbursement. The hospice benefit would be expanded beyond the 210-day lifetime limit to assure that terminally ill Medicare beneficiaries would have access to the benefit.

The bill includes a number of provisions which reduce payments to Medicare providers to contain costs in the program. These provisions assure the budget-neutrality of the bill.

B. BACKGROUND AND NEED FOR LEGISLATION

Human Resources

During the 101st Congress, as part of its oversight role, the Committee reviewed and studied the administration and effectiveness of the human resource programs within the jurisdiction of the Committee, and determined that certain of the laws governing such programs necessitated minor and technical changes in order to be carried out in accordance with the intent of Congress. In addition, the Committee reviewed expiring provisions of current law and determined the necessity of extending certain of these provisions. The resulting legislation will provide for more efficient administration of the human resource programs within the Committee's jurisdiction.

Social Security

The Committee has monitored the programs under Title II of the Social Security Act and determined that certain legislative changes were needed in order to ensure the effective administration of, and payment of benefits under the Act. The resulting legislation will streamline and enhance the services provided by the Social Security Administration, improve benefits and make minor and technical corrections in the Social Security Act and Railroad Retirement Act.

Health

Title III of the bill includes necessary modifications to Medicare including a number of needed minor and technical changes. The bill is needed in order to provide for orderly administration of the program and to provide for containment of the program's costs.

The Committee bill makes changes in current Medicare law with respect to patient self-determination. Given recent court decisions, it is important that providers of health services are aware of patient rights and that patients, providers, physicians, and other interested parties are educated regarding State laws relating to patient self-determination.

The bill provides for new guidelines for physician incentive plans used by Health Maintenance Organizations. These plans are designed to provide incentives to physicians to use health care services in a cost-effective fashion. In some instances, however, physician incentive plans may lead physicians to withhold needed services, and the bill provides safeguards against such situations.

A number of issues have arisen with the sale of supplemental insurance policies, known as Medigap policies, to senior citizens. Confusion exists among beneficiaries in terms of pricing and benefits.

Plans are marketed with insignificant differences in benefits which make price comparison difficult. As a result, beneficiaries purchase duplicative policies or policies which provide little marginal benefit to the particular purchaser. There is little enforcement of current law with respect to minimum standards for Medigap policies. The bill provides important protections against these problems by providing for standardization of benefits through enforcement minimum loss ratios, by prohibiting sales of duplicate policies, and through other reforms.

The initiatives of the bill would make several needed changes in reimbursement to health care providers.

An interim adjustment is provided for PPS-exempt hospitals in recognition of the fact that the base year for reimbursement of these hospitals is static.

Implementation of a limit on reimbursement of graduate medical education enacted in 1986 as part of Consolidated Omnibus Reconciliation Act may require a number of teaching hospitals to pay back to Medicare substantial overpayments. The bill provides for an orderly and fair process for recoupment of these overpayments.

In addition, a Medicare regulation excludes the costs of certain university-affiliated nursing education programs from reimbursement. The bill corrects this policy and requires the return of any funds which may have already been recouped due to alleged overpayments.

Community health centers and rural health clinics provide services to the poor. Due to Medicare's lower of cost or charges rule, services provided on a sliding scale basis in these clinics have not always been eligible for Medicare reimbursement. The bill corrects this and other minor problems with reimbursing these important community resources. The bill also puts community mental health centers on an equal footing with hospitals in providing outpatient mental health care.

End stage renal disease rates were put in place in 1983, but have never been updated. The bill provides for a modest increase in these rates.

The bill also reduces reimbursement in several areas in order to promote cost containment in the Medicare program. Since the inception of Medicare's prospective payment system, hospitals have unbundled certain services such as routine laboratory tests so that extra reimbursement would be forthcoming for services which heretofore had been reimbursed as part of the hospital admission. The bill extends the "window" for reimbursement of the hospital admission by assuring that services provided up to 72 hours prior to admission, not including weekend days, will not be separately reimbursable under Part B.

Hospital outpatient services and clinical laboratory services are the fastest-growing component of the Medicare program, outstripping even the growth in physician services. In response, the bill provides incentives for hospitals to become more efficient in the delivery of outpatient services and limits the rate of growth in fees for clinical laboratory services. Seatlift chairs and TENS devices have been areas subject to substantial abuse. The bill reduces reimbursement for these services in order to curb these abuses.

C. SUMMARY OF PRINCIPAL PROVISIONS

The Technical and Miscellaneous Social Security Act Amendments of 1990 make non-controversial, minor and technical amendments to the human resource, social security and medicare programs within the jurisdiction of the Committee on Ways and Means. These changes are summarized below.

Human Resources

Title I of the bill contains 24 human resource amendments affecting the child support enforcement, unemployment compensation, supplemental security income (SSI), aid to families with dependent children (AFDC), child welfare, and foster care programs. Among these are several time-sensitive provisions, including a permanent extension of authority for the Internal Revenue Service to intercept, from tax refunds, overdue child support owed to non-AFDC families.

The bill also includes several low cost amendments proposed by the Administration, such as additional authority for the existing repatriation program which permits the United States to bring home certain destitute Americans from overseas, optional monthly income reporting requirements for AFDC families, and more equitable treatment of foster care and adoption assistance payments in determining AFDC eligibility.

Social Security

Title II of the bill includes provisions which improve benefits for disabled widows, enhance Social Security Administration services and beneficiary protections, restore telephone access to the local offices of the Social Security Administration and reform the representative payee system. The package also includes an increase in the retirement test exempt amount and eliminates social security benefit recomputations for persons working past age 69. In addition, it streamlines the attorney fee payment process, eliminates certain retroactive benefits and makes permanent the continuation of disability benefits during appeal.

The package also includes several provisions to make technical corrections in the Social Security Act and Railroad Retirement Tax Act.

Health

Title III of the bill includes provisions relating to the Medicare program.

Subtitle A contains items to improve the administration and effectiveness of the Medicare program with no cost. Provisions regarding patient self-determination and standards for Medigap insurance as well as a number of miscellaneous provisions are included in this subtitle.

Subtitle B contains Medicare initiatives. These items are supported on a pay-as-you-go basis by proposed reductions in Medicare spending in Subtitle C. Provisions of Subtitle B include revisions of payments for university nursing education programs, community health centers and rural clinics and nurse anesthestists. The rates

for ESRD dialysis facilities would be increased. The hospice benefit would be expanded to eliminate the 210-day lifetime limit.

Subtitle C includes a number of provisions to reduce spending for Medicare services by a sufficient amount to exceed the estimated costs of the initiatives in Subtitle B. These items are generally similar to provisions of the Committee-reported reconciliation bill. Items in this Subpart include revisions to the hospital outpatient blend for ambulatory surgery and radiology, and payments for unsurveyed overpriced procedures.

II. Explanation of Provisions

Human Resource Provisions

(Title I of the bill)

C. SUPPLEMENTAL SECURITY INCOME

1. Treatment of Victims' Compensation Payments

Present Law

Under current law, amounts received from victims' assistance funds are included as income or assets for purposes of determining eligibility and benefits for SSI.

Explanation of Provision

The provision excludes from income or assets for purposes of determining SSI eligibility and benefits any payment received from a State-administered victims' assistance fund which the beneficiary could demonstrate was compensation for expenses incurred or losses suffered as a result of the crime.

Any portion of the victims' assistance payment which does not compensate for expenses incurred or losses suffered as a result of the crime would not be counted as income for the month in which it is received. Victims' compensation that is not spent during the nine-month period beginning after the month in which it was received, would be counted as a resource in the tenth month following the month in which it was received.

No person awarded victims' compensation, who was otherwise eligible for SSI and who refused to accept such compensation, would be considered ineligible for SSI as a result of such refusal.

Effective Date

The provision would take effect in the month beginning 6 months after the date of enactment.

2. Work Incentives

(a) Eliminate the Age Limit on Section 1619 Eligibility

Present Law

To be eligible for the Medicaid-only benefit under the section 1619 work incentive provisions an individual must be under 65 years old.

Explanation of Provision

The provision would eliminate this age limit.

Effective Date

The provision would be effective in the eighteenth month after the date of enactment.

(b) Treatment of Impairment-Related Work Expenses

Present Law

Impairment-related work expenses (IRWE) are excluded from a disabled individual's earnings for determinations of: (1) whether earnings constitute "substantial gainful activity;" (2) the benefit amount of an eligible disabled individual; and (3) continuing eligibility on the basis of income.

Explanation of Provision

The proposal would exclude impairment-related work expenses from income in determining initial eligibility and reeligibility for SSI benefits, and in determining State supplementary payments.

Effective Date

The provision would take effect for months following the month of enactment.

(c) Treat Certain Royalties and Honoraria as Earned Income

Present Law

Under present law, royalties received are considered unearned income under the SSI program unless they are from self-employment in a royalty-related trade or business. Honoraria are also considered unearned income. This results in a dollar-for-dollar loss of SSI benefits.

Explanation of Provision

Any royalty which is earned in connection with the publication of an individual's work, or any honorarium which is received for services rendered would be treated as earned income for purposes of SSI eligibility and benefit determination. This would mean that income from these sources would be disregarded to the same extent that income from other types of earnings is disregarded (i.e., the first $65 of monthly earnings plus 50 percent of additional earnings).

Effective Date

The effective date for the provision would be the eighteenth month beginning after the date of enactment.

3. State Relocation Assistance Not Counted as Income or Resources

Present Law

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 excludes from income and resources any relocation assistance provided under the Act to individuals receiving Federal assistance, including SSI. Relocation assistance is paid when individuals are required to move by the government. For example, the government might need their land for a public building

or highway or they might need to move because toxic wastes were discovered on the site. Under SSI, relocation assistance from any other source is considered income in the month received, and resources thereafter.

Explanation of Provision

The proposal would exclude from income and resources State relocation assistance.

Effective Date

The provision would take effect in the month beginning 6 months after the date of enactment and would expire 3 years later.

4. Evaluation of Child's Disability by Pediatricians

Present Law

Present law does not require that a pediatrician or other qualified specialist be involved in the evaluation of a child's disability case.

Explanation of Provision

The provision would require the Secretary of Health and Human Services to make reasonable efforts to ensure that a qualified pediatrician or other specialist in a field of medicine appropriate to the disability of the child evaluate the child's disability for purposes of determining eligibility for SSI.

Effective Date

The provision would take effect in the month beginning 6 months after the date of enactment.

5. Reimbursement for Vocational Rehabilitation Services

Present Law

The Secretary of HHS is required to refer blind and disabled individuals who are receiving SSI benefits to State vocational rehabilitation agencies and is authorized to reimburse these agencies for the reasonable and necessary costs of the vocational rehabilitation services that are provided to recipients under certain specified conditions. Reimbursement is not allowable with respect to services provided to individuals who are not receiving cash benefits but who are eligible for Medicaid benefits because they are in "special status" under 1619(b), are in suspended benefit status, or are receiving Federally-administered State supplementary payments but not Federal SSI benefits.

Explanation of Provision

The provision would implement a recommendation of the Disability Advisory council to authorize reimbursement for vocational rehabilitation services provided to individuals who are not currently receiving Federal SSI benefits but who are in "special status" under section 1619(b), are in suspended benefit status, or are receiving Federally-administered State supplementary payments. The

provision would apply to claims for reimbursement pending on or after the date of enactment.

Effective Date

The provision would take effect on the date of enactment.

6. Presumptive Eligibility Time Period

Present Law

The Social Security Administration can presume eligibility for up to 3 months while processing applications for SSI on the basis of disability or blindness. If the process takes longer than 3 months, those ultimately eligible for benefits after three months receive back payments. In 1989, the Social Security Administration estimates that the final decision on eligibility took longer than 3 months in 31 percent of the cases where presumptive eligibility had been granted. Those who are determined to be ineligible are not required to repay the benefits they received while SSA presumed their eligibility.

Explanation of Provision

The provision extends the period of presumptive eligibility from 3 to 6 months.

Effective Date

Date of enactment.

7. Continuing Disability and Blindness Reviews

Present Law

SSI recipients can participate in the work incentive provisions of section 1619 by earning amounts up to the level at which benefits cease ($857 per month for single persons). Even if they are no longer eligible for cash benefits, they can continue to receive Medicaid.

Participants in the work incentive provisions are subject to continuing disability or blindness review at certain times: (1) within 12 months of initial eligibility for the work incentive provisions; (2) promptly when an individual's earnings alone would have made him ineligible for cash assistance or Medicaid for the prior 12 months under section 1619 and he has become eligible again for either Medicaid or cash assistance.

Explanation of Provision

The provision permits continuing disability reviews no more than once every 12 months.

Effective Date

Date of enactment.

Social Security Provisions

(Title II of the bill)

1. Continuation of Disability Benefits During Appeal

Present Law

A disability insurance (DI) beneficiary who is determined to be no longer disabled may appeal the determination sequentially through three appellate levels within the Social Security Administration (SSA): a reconsideration, usually conducted by the State Disability Determination Service that rendered the initial unfavorable determination; a hearing before an SSA administrative law judge (ALJ); and a review by a member of SSA's Appeals Council.

The beneficiary has the option of having his or her benefits continued through the hearing stage of appeal. If the earlier unfavorable determinations are upheld by the ALJ, the benefits are subject to recovery by the agency. (If an appeal is made in good faith, benefit recovery may be waived.) Medicare eligibility is also continued, but medicare benefits are not subject to recovery.

The Disability Reform Amendments of 1984 (P.L. 98-460) provided benefits through the hearing stage on a temporary basis. This

provision was subsequently extended, most recently by the Omnibus Budget Reconciliation Act of 1989 (P.L. 101-239). That Act extends the provision to appeals of termination decisions made on or before December 31, 1990. Under this latest extension, payments may continue through June 30, 1991 (i.e., through the July 1991 check).

Explanation of Provision

The provision would make the temporary provision permanent. Thus, on a permanent basis, beneficiaries would have the option of having their DI and medicare benefits continued through the hearing stage of appeal. As under current law, DI benefits would be subject to recovery where the ALJ upheld the earlier unfavorable decision, while medicare benefits would not be subject to subsequent recovery.

Effective Date

The provision would be effective upon enactment.

2. Improvement of the Definition of Disability Applied to Disabled Widow(er)s

Present Law

A widow(er) or surviving divorced spouse of a worker may be entitled to widow(er)'s benefits if he or she is age 60, or at any age if he or she is caring for the worker's child who is under age 16. A widow(er) or surviving divorced spouse with no child care and who is under age 50 but is at least age 50 may be eligible for widow(er)'s benefits as a disabled widow(er).

Generally, disability is defined as an inability to engage in any substantial gainful activity (defined in regulations as earnings of $500 per month, effective January 1, 1990) by reason of a physical or mental impairment. The impairment must be medically determinable and expected to last for not less than 12 months or to result in death. A person (other than a disabled widow(er)) may be determined to be disabled only if, due to this impairment, he or she is unable to engage in any kind of substantial gainful work, considering his or her age, education and work experience, which exists in the national economy.

The definition of disability which is applied to widow(er)s, however, is stricter than that which is applied to workers and to Supplemental Security Income (SSI) disability applicants. First, a widow(er) must have a disability severe enough to prevent him or her from engaging in "any gainful activity" (little or no earnings at all) rather than substantial gainful activity (ordinarily, earnings of more than $500 per month). Second, for a disabled widow(er), the three vocational factors used in determining a worker's disability—age, education, and work experience—are not considered. Therefore, the disability must be established based on medical evidence alone.

Once SSA determined that an individual is disabled, there is a five-month waiting period before disability benefits are payable. Once disability benefits begin, there is a 24-month waiting period for entitlement to medicare benefits.

The stricter test of disability for disabled widow(er)s was established in the Social Security Amendments of 1967, which created this new entitlement to benefits. In explaining the reasons for the more restrictive rules, Chairman Wilbur Mills stated on the House floor, "We wrote this provision of the bill very narrowly . . . because it represents a step into an unexplored area where cost potentials are an important consideration."

Explanation of Provision

The provision of benefits to widow(er)s on the basis of disability has been found not to be a significant cost to the trust fund. Therefore, the provision would repeal the stricter definition of disability that must be met by a disabled widow(er) age 50-59 in order to qualify for widow(er)'s benefits and instead apply the definition of disability used for workers. Widow(er)s who had been receiving SSI disability benefits or social security disability benefits on their own work records prior to becoming eligible for disabled widow(er)'s benefits would be able to count the months beginning with the month they first received these benefits toward satisfying the five-month waiting period for disability benefits and the 24-month waiting period for medicare benefits. In addition, widow(er)s who receive SSI disability benefits prior to becoming entitled to disabled widow(er)'s benefits would not lose medicaid eligibility as a result of receiving a higher social security benefit, but only for so long as they are not entitled to medicare benefits.

Effective Date

The provision would be effective for benefits payable for months after December, 1990, but only on the basis of applications filed on or after January 1, 1991. The Secretary would not be required to make a new determination of disability for widow(er)s receiving SSI or disabled worker's benefits prior to becoming entitled to disabled widow(er)'s benefits. SSA would be required, to the extent possible, to notify such individuals of their eligibility for disabled widow(er)'s benefits.

3. Payment of Benefits to a Child Adopted by a Surviving Spouse

Present Law

A child adopted by the surviving spouse of a deceased worker must meet two tests in order to be entitled to benefits as a surviving child. First, adoption proceedings must have been initiated prior to the worker's death, or the adoption must have been completed within two years of the worker's death. Seond, the child must have been living in the worker's home and cannot have been receiving support from any source other than the worker or the spouse (e.g., a foster care program) in the year prior to the worker's death.

Explanation of Provision

A child adopted by the surviving spouse of a deceased worker would be entitled to survivor's benefits if the child either lived with the worker or received one-half support from the worker in

the year prior to death. The requirements relating to the timing of the adoption would not be changed.

Effective Date

The provision would be effective with respect to benefits payable for months after December 1990, but only on the basis of applications filed on or after January 1, 1991.

4. Payment of Benefits to Deemed Spouse and Legal Spouse

Present Law

A spouse or widow(er) whose marriage is found to be invalid (i.e., the husband or wife failed to obtain a legal divorce from a previous spouse, or there was some defect in the marriage ceremony) is eligible for benefits as a "deemed" spouse or widow(er) if he or she is living with the worker (or was at the time of the worker's death) and there is no legal spouse who is currently entitled or had previously been entitled to benefits on the worker's record. In cases where a deemed spouse is paid benefits and a legal spouse later files for benefits, the deemed spouse's benefits are terminated when the legal spouse becomes entitled. The deemed spouse may again receive benefits if the legal spouse and the worker legally divorce, or if the legal spouse dies.

Explanation of Provision

The provision would pay benefits to both the legal spouse and the deemed spouse (or to both the legal widow and the deemed widow). That is, the existence of a legal spouse would no longer prevent a deemed spouse from receiving benefits on the worker's record or terminate the benefits of a deemed spouse who was already receiving benefits on the worker's record.

A deemed spouse or deemed widow(er) would be entitled to benefits on the worker's record on the same basis as if he or she were a legal spouse and would be paid within the family maximum. The legal spouse would also be entitled to benefits and would be paid outside the family maximum once the deemed spouse became entitled to benefits.

In order to qualify as a deemed spouse, the individual would be required to be living with the worker at the time of filing for benefits (or at the time of the worker's death, in the case of a deemed widow(er)'s benefits). A deemed spouse who divorced the worker would be eligible for benefits on the same basis as if he or she were a divorced legal spouse.

Effective Date

The provision would be effective with respect to benefits payable for months after December 1990. With respect to deemed spouses or deemed widow(er)s whose benefits have been terminated, the provision would be effective for applications filed on or after January 1, 1991.

5. Improvements in the Representative Payee System

Present Law

Under current law, the Secretary of Health and Human Services may appoint a relative or some other person (known as a "representative payee") to receive social security or SSI benefit payments on behalf of a beneficiary whenever it appears to the Secretary that the appointment of a representative payee would be in the best interest of the beneficiary.

The Secretary is required to investigate each individual applying to be a representative payee either prior to, or within 45 days after, the Secretary certifies payment of benefits to that individual. Present law does not specify what shall be included in the investigation.

The Secretary is required to maintain a system of accountability monitoring under which each representative payee is required to report not less than annually regarding the use of the payments. The Secretary is required to review the reports and identify instances where payments are not being properly used.

Any individual convicted of a felony under section 208 or section 1632 of the Social Security Act may not be certified as a representative payee.

Explanation of Provision

a. Investigations of Representative Payee Applicants

Advocacy groups for the elderly and the Social Security Administration's (SSA's) own field representatives have testified before the Committee regarding the lack of a meaningful investigation of representive payee applicants by SSA. For this reason, the Committee feels it necessary to place minimum requirements for the investigation of representative payee applicants in statute. In addition, the Committee expects SSA to monitor more closely local field office compliance with policy set forth in its Procedures and Operations Manual Systems (POMS) when determining an individual's need for a represenative payee as well as when determining which representative payee applicant is best suited to serve as representative payee for an individual.

During the investigation of the representative payee applicant, the Secretary would be required to: (1) require the representative payee applicant to submit documented proof of identity; (2) conduct a face-to-face interview with the representative payee applicant when practicable; (3) verify the social security account number or employer identification number of the representative payee applicant; (4) determine whether the representative payee applicant has been convicted of a social security felony under section 208 or section 1632 of the Social Security Act; and (5) determine whether the representative payee applicant had ever been dismissed as a representative payeee for misuse of a beneficiary's funds. An individual who had been convicted of a felony under section 208 or section 1632 or dismissed as a representative payee for misuse of the benefit payment would not be permitted to be certified as a representative payee on or after January 1, 1991. The Secretary would be permitted to issue regulations under which an exemption from the

prohibition against certification in the case of misuse would be granted on a case-by-case basis, if the exemption would be in the best interest of the beneficiary. However, the Committee intends that the exemption would be granted only in rare instances.

The Secretary would be required to: (1) terminate payments to a representative payee where the Secretary or court of law found that the representative payee had misused the benefit payments; (2) maintain a list of those terminated for misuse on or after January 1, 1991; and (3) provide such a list to local field offices. If the computer program necessary to maintain such a list is not developed by January 1, 1991, the list should be maintained manually. Under current SSA policy, misuse is defined as converting benefit payments for personal use, or otherwise diverting the payments in bad faith with a reckless indifference to the welfare and interests of the beneficiary. The Committee expects the Secretary to apply this definition under this provision.

The Secretary would be required to maintain a centralized, current file readily retrievable by all local SSA offices of: (1) the address and social security account number (or employer indentification number) of each representative payee; and (2) the address and social security account number of each beneficiary for whom each representative payee is providing services as representative payee. In addition, local service offices would be required to maintain a list of all public agencies and community-based non-profit social service agencies qualified to serve as a representative payee in the area served by such office.

Current law prohibits any individual convicted of a felony under section 208 or section 1632 of the Social Security Act from serving as representative payee. The Committee has determined that until recently, SSA maintained no list of those convicted. The provision would require SSA to maintain such a list and make it readily available to local field offices.

b. Withholding of Benefits

In cases where the Secretary is unable to find a representative payee, and the Secretary determines that it would cause the social security beneficiary or SSI recipient substantial harm to make direct payment, the Secretary would be permitted to withhold payment for up to one month. Not later than the expiration of the one month period, the Secretary would be required to begin direct payment to the beneficiary starting with the current month's benefit unless the beneficiary had been declared legally incompetent or war under age 15. Retroactive benefits would be withheld until a representative payee had been appointed or the Secretary determines a suitable representative payee could not be found. Retroactive benefits would be paid over such period as the Secretary determines is in the best interest of the beneficiary.

It is not the intention of the Committee to encourage SSA to withhold benefits from a beneficiary whom the Secretary has determined to need a representative payee. The beneficiary should be paid directly if at all possible, especially if the beneficiary had been using the benefit payment to meet immediate needs such as shelter, food and clothing.

The Committee does not wish SSA to view the one month withholding period as a routinely acceptable length of time in which to find a representative payee. The Committee expects SSA to make every effort to find a qualified representative payee for an individual as quickly as possible.

The Committee recognizes that in some cases (such as an unreported change of address), SSA may not be officially notified of the need to change a representative payee. The Committee intends that the 1-month period of suspension shall be measured from the point the Secretary first becomes aware that a representative payee issue exists, and shall consider the objective of this provision met so long as the Secretary takes prompt action to minimize interruption of benefits.

c. Limitations on the Appointment of Representative Payee

An individual who is a creditor providing goods and services to an OASDI or SSI beneficiary for consideration would be precluded from serving as the beneficiary's representative payee with certain exceptions. The exceptions would include: (1) a relative who resides in the same household as the recipient; (2) a legal guardian or representative; (3) a facility licensed or certified under State or local law; (4) an administrator, owner, or employee of such facility if the recipient resides in the facility and the local social security office has made a good faith effort to locate an alternate representative payee; and (5) an individual whom the Secretary determines to be acceptable based on a written findings reached under established rules that require the individual to show to the satisfaction of the Secretary that he or she poses no risk to the recipient, that the individual's financial relationship with the recipient poses no substantial conflict of interest, and no other more suitable representative payee exists.

d. Appeal Rights and Notices

The beneficiary would have the right to: (1) appeal the Secretary's determination of the need for a representative payee; and (2) appeal the designation of a particular person to serve as representative payee. In appealing either the determination or the designation, the beneficiary (or the applicant in cases of intitial entitlement) would have a right to review the evidence upon which the determination was based and to submit additional evidence to support the appeal.

The Secretary would be required to send a written notice of the determination of the need for a representative payee to the beneficiary (other than a child under age 18 living with his parents), and each person authorized to act on behalf of an individual who is legally incompetent or is a minor.

The provision would require that the notices be provided in advance of any benefits being paid to a representative payee. In addition, the notice must be clearly written and explain the beneficiary's rights in an easily understandable manner.

e. High-Risk Representative Payees

The Secretary would be required to study and provide recommendations as to the feasibility and desirability of formulating stricter

accounting requirements for all high-risk representative payees and providing for more stringent review of all accountings from such representative payees. The Secretary would be required to define as high-risk representative payees: (1) non-relative representative payees who do not live with the beneficiary; (2) those who serve as a representative payee for five or more beneficiaries (under title II, title XVI or a combination thereof) and who are not related to them; (3) creditors of the beneficiary; and (4) any other group determined by the Secretary to be high-risk.

The purpose of the provision is to identify groups or individuals serving as representative payees who may be likely to misuse or improperly use benefit payments. At a minimum, the Committee expects SSA to examine board and care operators, nursing homes, and individuals who are not related to the beneficiary. The proposal does not apply to Federal or State governmental institutions.

f. Underpayment of Benefits

In cases where the negligent failure of the Secretary to investigate or monitor a representative payee results in misused benefits, the Secretary would be required to make repayment to the beneficiary. In addition, the Secretary would be required to make a good faith effort to obtain restitution of any misused funds.

g. Fee for Representative Payee Services

Community-based non-profit social service agencies, in existence on October 1, 1988, which are bonded or licensed by their states and regularly serve as representative payees for five or more beneficiaries would be allowed to collect a monthly fee for representative payee services. The fee would be collected from the beneficiary's social security or SSI payment not to exceed the lesser of ten percent of the monthly benefit due or $25.

The provision would sunset after three years. The Secretary would be required to keep track of the number and type of groups who participated under this provision and report back to the Committee on Ways and Means and the Committee on Finance at the end of two years.

In general, the provision would prohibit an agency which is a creditor of the beneficiary from serving as a representative payee but would require the Secretary to develop regulations whereby exceptions would be granted on a case by case basis if the exception is in the best interest of the beneficiary.

The term "community-based, non-profit, social service agencies" means non-profit social service agencies which are representative of communities or significant segments of communities and that regularly provide services for those in need. Guardian, Inc., of Calhoun County, Michigan, is an example of a non-profit organization which regularly provides representative payee services. The Salvation Army, Catholic Charities, and Lutheran Social Services are examples of agencies providing social services to the needy.

Qualified organizations which charge or collect, or make arrangements to charge or collect, a fee in excess of the maximum fee would be guilty of a class B misdemeanor.

Currently, SSA permits an individual serving as a representative payee to be reimbursed from the beneficiary's check for actual out-

of-pocket expenses incurred on behalf of the beneficiary. These expenses include items such as stamps, envelopes, cab fare or long-distance phone calls. It is the intention of the Committee that such individual representative payees would continue to be reimbursed in this manner. The Committee does not intend these representative payees to receive any additional fee for services.

The GAO would be directed to conduct a study of the advantages and disadvantages of allowing qualified organizations that charge fees to serve as representative payees to individuals who receive social security and SSI benefits, and to report its findings to the Committee on Ways and Means and the Committee on Finance no later than January 1, 1992.

h. Studies and Demonstration Projects

(i) The Secretary would be required to enter into demonstration arrangements with not fewer than two states under which the Secretary would send to such states a list of all addresses where OASDI and SSI benefit payments are received by five or more unrelated beneficiaries. The Secretary would be required to send the information to the state agencies primarily responsible for regulating care facilities in the participating states.

The purpose of this demonstration project is to determine whether providing such information to the state protective service agencies would be useful in locating unlicensed board and care homes.

(ii) The Secretary would be required to study the feasibility of determining the type of representative payee applicant most likely to have a felony or misdemeanor conviction, the suitability of individuals with prior convictions to serve as representative payees, and the circumstances under which such applicants could be allowed to serve as representative payee.

The information obtained from this study would assist the Committee in determining whether there are circumstances under which an individual with a conviction should be permitted to serve as a representive payee.

(iii) The Secretary of Health and Human Services, in consultation with the Secretary of the Treasury and the Attorney General, would be required to study the feasibility of establishing and maintaining a list of the names and social security account numbers of those who have been convicted of social security or SSI check fraud violations under section 495 of title 18 of the U.S. Code. As part of the study, the Secretary would be required to consider the feasibiliy of providing such a list to social security field offices in order to assist claims representatives in the investigation of representative payee applicants. The Secretary would be required to report the results of the study, together with any recommendations, to the Committee on Ways and Means and the Committee on Finance no later than July 1, 1991.

Law enforcement agencies do not report violations under section 495 of title 18 of the U.S. Code to either SSA or the Department of Health and Human Services Inspector General. As a result, SSA is often unaware of arrests and convictions of individuals for violations under this section and therefore fails to obtain restitution or to prevent those convicted of such violations from serving as representative payee.

To obviate the need for law enforcement, the proposal would require the Secretary to negotiate memoranda of understanding with the appropriate law enforcement agencies.

(iv) The Secretary would be required to conduct a study with the Department of Veterans' Affairs of the feasibility of designating the Department of Veterans' Affairs as the lead agency for administering a representative payee program for dual recipients of Old Age Survivors and Disability Insurance or Supplemental Security Income benefits and veterans' benefits. The Secretary would be required to report to Congress on the feasibility of this arrangement within six months after enactment.

Effective Date

In general, the provision would be effective July 1, 1991.

6. Streamlining of the Attorney Fee Payment Process

Present Law

Attorneys and other persons who represent claimants before the Social Security Administration (SSA) are permitted to collect fees for their services, subject to approval and limits set by SSA. By regulation, the representative must submit a fee petition detailing the number of hours spent on the case and requesting a specific fee. The Administrative Law Judge (ALJ) who heard the case is required to review the fee petition. If the fee requested is less than $4,000, the ALJ has authority to approve or modify it. If the amount requested exceeds $4,000, it must be reviewed and approved or modified by the regional Chief ALJ. Where the claimant is represented by an attorney and a favorable determination is made, SSA by statute withholds up to 25 percent of the claimant's past-due social security benefits and pays the attorney directly. In cases where the claimant is concurrently entitled to both retroactive social security and Supplemental Security Income (SSI) benefits and the SSI benefits are paid first, the amount of past-due social security benefits payable is reduced by the amount of SSI benefits that would not have been paid if the social security benefits had been paid monthly when due rather than retroactively. In many such cases, this leaves little or no past-due social security benefits out of which to pay the attorney the approved fee.

Explanation of Provision

The provision would generally replace the fee petition process with a streamlined process in which SSA would approve any fee agreement jointly submitted in writing and signed by the representative and the claimant if the Secretary's determination with respect to the claim for benefits was favorable and if the agreed-upon fee did not exceed a limit of 25 percent of the claimant's past-due benefits up to $4,000. The $4,000 limit could be increased periodically for inflation at the Secretary's discretion. If a fee was requested for a claim which did not meet the conditions for the streamlined approval process, it would be reviewed under the regular fee petition process.

A representative who is an attorney would be paid the approved fee out of the claimant's past-due social security benefits, prior to

any reduction for previously-paid SSI benefits. However, if the attorney were awarded a fee in excess of 25 percent of the claimant's past-due social security benefits, the amount payable to the attorney out of the past-due social security benefits could not exceed 25 percent of these benefits.

The representative, the claimant, or the ALJ that heard the case would have the right to protest the approved fee. However, the ALJ could protest the approved fee only on the basis of evidence of the failure of the person representing the claimant to represent adequately the claimant's interest, or on the basis of evidence that the fee is clearly excessive for services rendered. SSA would review any protested fee and approve, modify or disallow it. If the ALJ that heard the case filed the protest, a different ALJ would review the fee.

This process is not to be used to establish regular review of fees at the ALJ level. The Committee wishes to emphasize that the protest of a fee amount by an ALJ is to be made only in cases where there is prima facie evidence that the fee is clearly excessive for services rendered.

The Committee intends that the streamlined fee approval process would apply in cases where the fee is paid by a third party, such as a private disability insurer, and the claimant incurs no direct or indirect liability for the cost of the representation. The Secretary would be authorized to establish such regulations with respect to such cases as he deems necessary (1) to implement the streamlined process, (2) to safeguard the interests of claimants, and (3) to further simplify the process as he deems appropriate.

In addition, with respect to reimbursement for travel expenses of individuals who represent claimants, such reimbursement could not exceed the maximum amount that would be payable for travel to the site of the reconsideration interview or proceeding before an ALJ from a point within the geographical area served by the office having jurisdiction over the interview or proceeding.

With the exception of the provisions relating to direct payment of an attorney's fee out of past-due benefits, conforming changes would be made with respect to representation of SSI applicants.

Effective Date

The provision would be effective for determinations made on or after January 1, 1991, and reimbursement for travel costs incurred on or after January 1, 1991.

7. *Improvements in Social Security Administration Services and Beneficiary Protections*

Present Law

a. *General Notice Requirements.*—The Secretary must use understandable language in notifying individuals of a denial of disability benefits. The law is silent regarding the language of other notices.

b. *Appeal Versus Reapplication.*—If a claimant for social security disability benefits successfully appeals an adverse determination by the Secretary, benefits can be paid retroactively for up to 12 months prior to the date of the original application.

If, however, instead of appealing, the claimant reapplies and is subsequently found to be disabled as of the date originally alleged, there are circumstances where retroactive benefits would be limited to 12 months prior to the date of the subsequent application (rather than prior to the date of the first application). This occurs when SSA's "reopening rules" do not permit the original application to be reopened. (SSA's administrative policy permits a case to be reopened within 12 months of an initial determination for any reason; and within four years if there is new and material evidence or the original evidence clearly shows on its face that an error was made in the original decision).

A reapplication, in lieu of an appeal, also could result in an outright denial of social security or Supplemental Security Income (SSI) benefits without consideration of an individual's medical condition. This occurs in the case of social security when (i) the claimant's insured status runs out before the date of the original denial, and (ii) there is no new and material evidence and no facts or issues that were not considered in making the prior decision. In the case of SSI, this occurs when (ii) applies. In these situations, SSA applies the legal principle of *res judicata* to deny the subsequent claim. Under this principle—the use of which is prescribed by SSA regulations—SSA will not consider the same claim again and again.

Prior to May 1989, SSA's standard denial notice informed claimants that they could reapply at any time but did not explain the potential adverse consequences of reapplying versus appealing a denial. A May 1989 modification of this notice informs claimants that reapplying may result in a loss of benefits but does not mention the second problem described above, i.e., an outright denial of eligibility without further consideration of the evidence.

Explanation of Provision

The provision would establish the following additional protections for title II and title XVI claimants and beneficiaries:

a. *General Notice Requirements.*—In issuing notices concerning title II and title XVI benefits, the Secretary would be required to:

(i) use clear and simple language;

(ii) in notices generated by SSA local offices, include the telephone number of that office; and

(iii) in notices generated by SSA central offices, include the address of the local office which serves the recipient of the notice and a telephone number through which that office can be reached.

b. *Appeal Versus Reapplication.*—When a claimant for social security or SSI benefits can demonstrate that he or she failed to appeal an adverse decision because of reliance on incorrect, incomplete, or misleading information provided by SSA, his or her failure to appeal could not serve as the basis for denial by the Secretary of a second application for any payment under title II or title XVI. This protection would apply to both initial denials and reconsiderations by the Secretary. The Secretary also would be required to include in all notices of denial a clear, simple description of the effect on possible entitlement to benefits of reapplying rather than filing an appeal.

Effective date

a. *General Notice Requirements.*—The provision would apply to notices issued on or after January 1, 1991.

b. *Appeal Versus Reapplication.*—The provision would apply to adverse determinations made on or after January 1, 1991.

8. Restoration of Telephone Access to the Local Offices of the Social Security Administration

Present law

The Social Security Act is silent regarding telephone service provided by the Social Security Administration (SSA). In practice, SSA currently operates 37 teleservice centers (TSCs) that respond to inquiries from the public. In addition to providing general program information, these TSCs can schedule appointments at local offices and provide individual service, including discussing a person's eligibility and taking specific actions regarding his or her benefits. In October 1988, the TSCs were integrated into a toll-free telephone network that covered 60 percent of the population. In October 1989, toll-free service was extended via the TSCs and four new mega-TSCs to the entire country. At the same time, direct telephone access to SSA's local field offices was terminated, so that the public can no longer call most of these offices directly.

Since October 1989, the Committee has received many complaints from the public about SSA's telephone service. These complaints focus on high 800 number busy rates, on problems with the accuracy and completeness of information provided to callers, and on difficulties caused by the elimination of telephone access to local offices. The SSA has subsequently restored direct telephone access to some local offices.

Explanation of Provision

The provision would require the Secretary to reestablish telephone access to local SSA offices at the level generally available on September 30, 1989 (the date just prior to the cut-off of direct telephone access to most local offices). The Secretary would also be required to re-list these local office numbers in local telephone directories (as well as in the directories used by public telephone operators in providing callers with information). The required telephone listings would include a brief instruction to the public to call SSA's 800 number for general information.

In addition, by January 1, 1993, the Secretary would be required to submit to the Committee on Finance and the Committee on Ways and Means a report which: (i) assesses the impact of the requirements established by this provision on SSA's allocation of resources, workload levels, and service to the public, and (ii) presents a plan for using new, innovative technologies to enhance access to SSA local offices. If the Secretary's plan provides for maintaining or enhancing public access to local offices by individuals in need of assistance from a local SSA representative, it is the Committee's intent to reconsider the need for a statutory requirement governing telephone access.

The General Accounting Office would be required to report to the Committee on Finance and the Committee on Ways and Means

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on the level of public telephone access to the local offices of the Social Security Administration. An interim report would be due 120 days after enactment, and a final report, 210 days after enactment.

Effective Date

The provision would require restoration of SSA's local telephone service as soon as possible but no later than 180 days after enactment.

9. Creation of a Vocational Rehabilitation Demonstration Project

Present Law

Since the establishment of the Disability Insurance (DI) cash benefits program in 1956, the Social Security Administration (SSA) has been required to refer disabled beneficiaries and applicants to State vocational rehabilitation agencies so that the maximum number of them may be rehabilitated and return to work. When the services provided by a State agency result in a beneficiary engaged in substantial gainful activity for at least nine months, SSA reimburses the agency for the cost of these services from the DI trust fund (or, in the case of disabled widow(er)s and disabled adult children, from the OASI trust fund).

Explanation of Provision

SSA would be required to develop and carry out demonstration projects assessing the advantages and disadvantages of permitting disabled beneficiaries to select a qualified rehabilitation agency, public or private, to provide them with services aimed at enabling them to engage in substantial gainful activity and leave the disability rolls. Those eligible to participate in the demonstration projects would include disability insurance beneficiaries, disabled widow(er)s, and disabled adult children. The project would be implemented in at least three sites in three separate states. They would include a sufficient number of beneficiaries and be of sufficient scope to permit an evaluation of:

the extent to which disabled beneficiaries will participate in the provider selection process (including an identification of their reasons for participating or not participating);

the characteristics (including impairments) of beneficiaries by the type of provider selected;

the rehabilitation needs of beneficiaries by the type of provider selected;

the extent to which non-State vocational rehabilitation firms accept referrals of disabled beneficiaries on the basis of current law reimbursement provisons and of the most effective mechanisms for reimbursing such providers within the framework of current law;

the extent to which providers participating in the demonstration projects contract out services and the types of services that are contracted out;

whether beneficiaries who select their own vocational rehabilitation provider are more likely to work and leave the disability rolls than those who do not;

the cost effectiveness of permitting beneficiaries to select their vocational rehabilitation provider and of different types of providers; and

the feasibility of enacting the arrangement being tested on a national basis and the additional procedural safeguards, if any, needed to assure its effectiveness if made part of permanent law.

In selecting beneficiaries to participate in the project, the Secretary must choose those for whom there is a reasonable likelihood that the rehabilitation services provided will result in their performance of substantial gainful activity for a continuous period of nine months prior to the completion of the project.

Project participants would be permitted to select a qualified provider to furnish them with rehabilitation services. After seeking recommendations from disabled individuals and organizations representing them, the Secretary would designate a number of qualified providers in the geographic areas of each of the three demonstration sites. In addition, the Secretary would have authority to approve rehabilitation services provided outside these areas on a case-by-case basis.

Providers that participate in the project would be reimbursed in accordance with current law (section 222(d) of the Social Security Act), except that the Secretary would be permitted to contract with qualified providers on a fee-for-service basis to: (1) conduct vocational evaluations aimed at identifying those participants who have a reasonable potential for engaging in substantial gainful activity and being removed from the disability rolls if provided with vocational rehabilitation services; and (2) develop jointly with those participants an idividualized written rehabilitation program.

This program would include, but not be limited to: (1) a statement of the individual's rehabilitation goal; (2) a statement of the specific rehabilitation services to be provided and the rehabilitation provider from which those services will be obtained; (3) the projected date for the initiation of such services and their anticipated duration; and (4) objective criteria and an evaluation procedure and schedule for determining whether the goals are being achieved.

The demonstration project would run for three years. By April 1, 1992, the Secretary would be required to submit a report on the progress of the projects to the Committee on Ways and Means and the Committee on Finance. A final report to these Committees would be due six months after completion of the projects, or by April 1, 1994.

Authority for this demonstration project is provided as an amendment to section 505 of the Social Security Disability Amendments of 1980. To allow for completion of these projects, the Secretary's general authority under section 505 would be extended by approximately three months, from June 10, 1993 to October 1, 1993.

Effective Date

The provision would be effective upon enactment.

10. Use of Social Security Number by Certain Legalized Aliens

Present Law

The use of a false social security number or social security card or the misreporting of social security covered earnings, with intent to deceive, is a felony under section 208 of the Social Security Act, punishable by a maximum penalty of up to $250,000 or up to 5 years imprisonment. The Immigration Reform and Control Act of 1986 (IRCA) extended amnesty and the opportunity to obtain legal status to certain illegal aliens who had been resident and working in the United States for a substantial period of time. However, persons leagalized under IRCA are still subject to prosecution for use of a false social security number or card under section 208 of the Social Security Act. As a result, alien workers who are granted temporary or permanent legal resident status under IRCA, and who apply for a correct social security number under IRCA, and who apply for a correct social security number or attempt to correct their earnings records with the Social Security Administration, may be subject to prosecution as a result of their previous use of a false number or card.

Explanation of Provision

The provision would amend the Social Security Act to provide that aliens who, under IRCA or section 902 of the Foreign Relations Authorization Act for Fiscal Years 1988 and 1989, applied for and were granted legal status would not be prosecuted under certain of the criminal provisions in section 208, by virtue of having used a false social security number or card or having misreported earnings with intent to deceive, during the period prior to, or within 60 days after enactment of this provision. The exemption would not apply to those who sold social security cards, possessed social security cards with intent to sell, possessed counterfeit social security cards with intent to sell or counterfeited social security cards with intent to sell.

The purpose of IRCA is to give most illegal aliens who had been long established in the United States (generally present since January 1, 1982) and who are contributing members of the society an opportunity to become legal residents and lead normal lives. The use of false social security numbers was a common practice among illegal aliens attempting to work in the United States.

When this population was given amnesty from prosecution for violation of the immigration laws, the fact that they could still be prosecuted for previously using a false social security number or card, even after obtaining temporary or permanent resident status, was not addressed. As a result, most of the legalized population is still technically subject to prosecution and loss of legal status as soon as they attempt to correct their earnings records. Many aliens who have applied for, or have been granted, amnesty have not yet corrected their social security earnings record for fear of prosecution under section 208.

The Committee intends that this exemption apply only to those individuals who use a false social security number to engage in otherwise lawful conduct. For example, an alien who used a false social security number in order to obtain employment which re-

sults in eligibility for social security benefits or the receipt of wage credits would be considered exempt from prosecution. However, an alien who used a false social security number for otherwise illegal activity such as bank fraud or drug trafficking would not be exempt from prosecution under this provision.

The provision would make the Social Security Act consistent with the amnesty provisions of IRCA. The Committee believes that individuals who are provided exemption from prosecution under this proposal should not be considered to have exhibited moral turpitude with respect to the exempted acts for purposes of determinations made by the Immigration and Naturalization Service.

The exemption would apply to all individuals who received amnesty regardless of when they were granted status.

Effective Date

The provision would be effective for fraudulent use which occured prior to, or within 60 days after, enactment by any person who is ultimately granted legal status under IRCA or section 902 of the Foreign Relations Authorization Act for fiscal year 1988 and 1989.

11. Reduction in Wages Needed for a Year of Coverage Toward the Special Minimum Benefits

Present Law

A "special minimum" social security benefit is available to workers who have many years of work at modest wages. The amount of this benefit is determined by an alternative benefit computation that calcualtes the benefit based on the number of years of significant earnings, rather than on average lifetime earnings. It applies in cases where this computation results in a higher benefit than that which would be derived under the regular social security benefit computation rules.

The special minimum benefit is computed by multiplying the number of years of special minimum coverage by a base amount. However, only those years in excess of 10 and up to 30 can be multiplied by the base amount (e.g., if an individual has 30 years of coverage toward the special minimum, only 20 of these years can be multiplied by the base amount to determine the benefit amount). In 1990, the base amount is $21.90. A worker with 30 years of coverage under the special minimum would receive a benefit of $437.

For 1951-1978, the individual earns a year of coverage for each year in which he or she has wages or self-employment income of at least 25 percent of the social security contribution and benefit base for that year and, for years after 1978, at least 25 percent of the old-law contribution and benefits base for that year.

Explanation of Provision

The provision would reduce the amount of wages or self-employment income required to earn a year of coverage from 25 percent of the old-law contribution and benefit base (projected to be $10,125 in 1991) to 15 percent of the old-law contribution and benefit base (projected to be $6,075 in 1991).

Because the minimum wage was not increased from 1981 through 1989, while the social security contribution and benefit base has been indexed to wage increases, the level of wages required to earn a year of coverage has exceeded the minimum wage in every year since 1983. The provision would make it possible once again for a minimum-wage earner to earn years of coverage toward the special minimum. (In 1991, a full-time minimum wage worker would earn $8.606.)

Effective Date

The provision would be effective for years of coverage earned after 1990.

12. Repeal of Retroactive Benefits for Certain Categories of Individuals

Present Law

Social security retirement and survivor benefits can be paid for up to six months prior to the month of application if the applicant were otherwise eligible for benefits during that period.

In general, retroactive benefits cannot be paid if doing so would cause a reduction in future monthly benefits (i.e., it would effectively mean that an individual would be filing for "early retirement," in which case an actuarial reduction in benefits is required). For example, if a retroactive application for retirement benefits were to cause a retiree's initial entitlement month to fall before the individual reached age 65, no retroactive benefits could be paid for the months prior to age 65. However, there are four exceptions to this rule which permit payment of retroactive benefits even though it causes an actuarial reduction in benefits.

Explanation of Provision

The provision would eliminate eligibility for retroactive benefits for two categories of individuals eligible for actuarially reduced benefits: (1) individuals who have dependents who would be entitled to unreduced benefits during the retroactive period (e.g., a retiree under age 65 who has a spouse age 65 or over); and (2) individuals who have pre-retirement earnings over the amount allowed under the social security retirement test that could be charged off against benefits for months prior to the month of application, thus permitting an early retiree to receive benefits for months prior to actual retirement.

Effective Date

The provision would be effective with respect to applications for benefits filed on or after January 1, 1991.

13. Charging of Earnings of Corporate Directors

Present Law

The Omnibus Budget Reconciliation Act of 1987 required that, for purposes of both social security taxation and the retirement test, corporate directors' earnings be treated as received in the year that the services to which they are attributable were performed.

Prior to OBRA, because corporate directors' earnings were taxed when received, directors were able to avoid benefit reductions from the retirement test by deferring receipt of earnings until reaching age 70.

Explanation of Provision

The provision that treats directors' earnings as taxable in the year that the services to which they are attributable were performed would be repealed. Thus, directors' earnings would be treated as received in the year that the relevant services are performed only for purposes of the social security retirement test.

Effective Date

The provision would be effective with respect to services performed in taxable years beginning after December 31, 1990.

14. Two-year Extension of General Fund Transfer to Railroad Retirement Tier 2 Fund

Present Law

The proceeds from the taxation of railroad retirement Tier 2 benefits are transferred from the General Fund of the Treasury into the Railroad Retirement Account. This transfer applies only to proceeds from the taxation of benefits which are received prior to October 1, 1990. Proceeds from the taxation of benefits received after this date will remain in the General Fund.

Explanation of Provision

The transfer of proceeds from the taxation of railroad retirement Tier 2 benefits from the General Fund into the Railroad Retirement Account would be extended for two years, to apply to benefits received prior to October 1, 1992. The continuation of this transfer is estimated to result in an additional deposit into the Railroad Retirement Account of $385 million.

Effective Date

The provision would be effective with respect to benefits received after September 30, 1990, and before October 1, 1992.

15. Waiver of the Two-year Waiting Period for Certain Divorced Spouses

Present Law

A divorced spouse is entitled to benefits on the record of a worker to whom he or she was previously married so long as three conditions are met: 1) both the worker and the divorced spouse are eligible for social security retirement benefits (i.e., are age 62 or older); 2) the marriage lasted 10 years; and 3) the worker is receiving benefits.

If the worker is eligible for benefits but is not receiving them (because the worker has not filed for benefits or because benefits have been suspended due to the retirement test), the divorced spouse may nevertheless be paid benefits on the worker's record, but only when the divorce has been final for two years. The purpose of this

two-year waiting period is to prevent couples from obtaining a divorce solely to avoid suspension of spousal benefits under the retirement test. The waiting period is imposed on any divorced spouse whose former spouse does not receive benefits, regardless of whether the divorced spouse was receiving benefits prior to the divorce. Some people argue that the waiting period imposes a hardship on a spouse who had been receiving benefits prior to the divorce, but who loses these benefits because the former spouse returned to work after the divorce.

Explanation of Provision

The provision would waive the two-year waiting period for independent entitlement to divorced spouse's benefits if the worker was entitled to benefits prior to the divorce. In this way, a spouse whose divorce took place after the couple had begun to receive retirement benefits, and whose former spouse (the worker) returned to work after the divorce thus causing the suspension of benefits, would not lose benefits on which he or she had come to depend.

Effective Date

The provision would be effective for benefits payable for months after December, 1990.

16. Preeffectuation Review of Favorable Decisions by the Social Security Administration

Present Law

The Social Security Disability Amendments of 1980 require the Secretary of Health and Human Services (HHS) to review 65 percent of favorable title II decisions made by the State Disability Determination Services (DDSs) each year prior to their effectuation. The review applies to favorable decisions on initial claims, on reconsiderations, and on continuing disability reviews. At Social Security Administration's (SSA's) current volume of applications and appeals, the agency is required to conduct about 450,000 preeffectuation reviews annually.

The Committee on Ways and Means approved the 65 percent requirement in 1980 as a means of promoting uniformity and accuracy in favorable disability decisions. At that time, the Committee noted that:

> ". . . in some instances reviewing this percentage of cases may not be cost effective—a lower or higher percentage may be prudent. If the Secretary finds this to be the case, we would expect him to report his findings to [the] Committee in an expeditious manner." (H. Rept. 96-100, p. 10)

Since 1981, SSA improved its capacity to identify the general types of approvals and continuances that are most likely to be incorrect. These improvements were documented in a March 1990 report by the General Accounting Office, which suggests that SSA can maintain current levels of accuracy, and possibly even improve upon them, by targeting preeffectuation reviews on error-prone cases.

Explanation of Provision

The percentage of favorable state agency decisions that the Secretary must review would be reduced from 65 percent across-the-board to 50 percent of allowances. The 50 percent requirement would apply to both initial allowances and allowances upon reconsideration. The Secretary would also be required to review a sufficient number of continuances to assure a high level of accuracy in such decisions. To the extent feasible, the reviews would focus on allowances and continuances that are likely to be incorrect.

SAA would be required to submit annual written reports to the Committee on Ways and Means and the Committee on Finance which (i) state the number of preeffectuation reviews conducted the previous year and, (ii) based on these reviews, assess the accuracy of DDS decisions.

Effective Date

The provision would apply to reviews of state agency determinations made after fiscal year 1990.

The provision would apply to reviews of state agency determinations made after fiscal year 1990.

17. Increase in the Retirement Test for Workers Age 65-69

Present Law

In 1990, individuals age 65-69 may earn up to $9,360 in annual wages or self-employment income and still be treated as retired; that is, they will have no reduction in their social security benefit as a result of earnings at or below this exempt amount. The exempt amount is automatically adjusted each year to reflect the change in average wages in the economy. The retirement test for those age 65-69 will rise to $9,720 in 1991 and is projected by the Congressional Budget Office to be $10,560 in 1992, $11,160 in 1993, $11,760 in 1994, and $12,480 in 1995. The retirement test for those under age 65 is currently $6,840 and will rise to $7,080 in 1991.

For earnings in excess of these amounts, beneficiaries age 65-69 lose $1 in benefits for every $3 in earnings. Beneficiaries under age 65 lose $1 in benefits for every $2 in earnings in excess of their limit. Persons age 70 years or older are not subject to the retirement test.

Explanation of Provision

The provision would increase the retirement test applied to those age 65-69 by $1,800 in 1993 and $2,640 in 1994 above the level which would occur under the automatic procedure. The resulting exempt amount is projected to be $12,960 in 1993 and $14,400 in 1994. These ad hoc increases would be included permanently in the exempt amount so that automatic increases in future years would be calculated based on an inclusion of these ad hoc increases.

Effective Date

The provision would be effective for taxable years ending after 1990.

18. Elimination of Benefit Recomputations for Earnings after Age 69

Present Law

The amount of a worker's monthly social security retirement benefit is established at age 62. It is based on an average of the worker's lifetime earnings, using the 35 years with the highest earnings to compute the average. (For workers reaching age 62 in 1989 or earlier, fewer years are used in computing average lifetime earnings.) Earnings from years prior to the year the worker reached age 61 are indexed to reflect wage growth. A worker who does not have 35 years of earnings has a zero averaged into his or her average lifetime earnings for each year in which he or she had no wages or self-employment income.

If a worker continues to have earnings after age 61, and these earnings are higher than indexed earnings in one of the 35 years used to compute average lifetime earnings, the higher-earning year is substituted for a lower-earning year or a year with no earnings. This raises the worker's average lifetime earnings and the monthly benefit is recomputed to produce a higher benefit amount.

Explanation of Provision

The provision would eliminate recomputations of benefits for beneficiaries with earnings in the year they reach age 70 or later years, except for beneficiaries with one or more "zero years" averaged into their average lifetime earnings.

Effective Date

The provision would be effective for recomputations of benefits on the basis of wages or self-employment income for years after 1990.

19. Technical Amendments

A number of technical amendments would be made with respect to the collection of employee social security tax on group-term life insurance; old benefit-computation methods; dependent's benefits when a disabled worker is in an extended period of eligibility; and the cross-referencing of the railroad retirement Tier 1 tax rate to the Federal Insurance Contributions Act. The provision would also correct several technical errors contained in the Social Security Act.

20. Exclusion of Student Nurse Services from Social Security Coverage

This legislation contains no provision revising the current social security tax exclusion for services provided by a student nurse. However, the Committee notes that a controversy concerning this scope of this exclusion has arisen between the Internal Revenue Service (IRS), which has interpreted the exclusion narrowly, and a number of hospitals which have claimed FICA tax refunds for student nurse services based on a broader interpretation of the exclusion. The Committee has also received reports of inconsistent and conflicting IRS advise to hospitals and treatment of refund re-

quests. The Committee intends to look further into this controversy during 1991.

III. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATE

In compliance with clause 7(a) of Rule XIII of the Rules of the House of Representatives, the following statement is made: the Committee agrees with the estimate provided by the Congressional Budget Office (CBO) which is included below.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 2(l)(3)(B) of Rule XI of the Rules of the House of Representatives, the Committee states that the cost esti-

mate from the Congressional Budget Office indicates that there is a change in budget authority and there are no new or increased tax expenditures as a result of the bill.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 2(l)(3)(C) of Rule XI of the Rules of the House of Representatives requiring a cost estimate prepared by the Congressional Budget Office, the following report prepared by CBO is provided.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 18, 1990.

Hon. Dan Rostenkowski,
Chairman, Committee on Ways and Means,
United States House of Representatives,
Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 5828, the Technical and Miscellaneous Social Security Act Amendments of 1990, as ordered reported to the House Committee on Ways and Means on October 17, 1990. Because final legislative language was not available at the time this estimate was prepared, the estimates are preliminary and could change when final language is reviewed.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT F. HALE
(For Robert D. Reischauer).

H.R. 5828, AS ORDERED REPORTED BY THE COMMITTEE ON WAYS AND MEANS

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995	Total 1991-1995
TITLE I—HUMAN RESOURCES AMENDMENTS						
Subtitle A—Income security:						
1011 IRS Intercept for non-AFDC Families—Estimated Direct Spending	1	1	2	2	3	9
1012 Extend Commission on Interstate Child Support—Subject to Appropriations			0	0	0	
1013 Child Support Enforcement Waiver—Estimated Direct Spending			0	0	0	
Subtitle A—Subtotal:						
Estimated Direct Spending	1	1	2	2	3	9
Subject to Appropriations			0	0	0	
Subtitle B—Unemployment compensation:						
1021 "Reed Act"—Estimated Direct Spending	0	0	0	0	0	0
1022 Prohibition against collateral estoppel—Estimated Direct Spending	0	0	0	0	0	0
Subtitle B—Subtotal: Estimated Direct Spending	0	0	0	0	0	0
Subtitle C—Supplemental Security Income:						
1031 Exclusion from Income and Resources of Victims' Compensation Payments—Estimated Direct Spending						

H.R. 5828, AS ORDERED REPORTED BY THE COMMITTEE ON WAYS AND MEANS—Continued

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995	Total 1991-1995
1032 Continuation of Medicaid Eligibility under Section 1619(b) past age 65—Estimated Direct Spending	0	0	0	0	0	0
1033 Exclusion from Income of Impairment-Related Work Expenses—Estimated Direct Spending						
1034 Treatment of Royalties and Honoraria as Earned Income—Estimated Direct Spending	0					
1035 Certain State Relocation Assistance Excluded from SSI Income and Resources—Estimated Direct Spending						
1036 Evaluation of Child's Disability by Pediatriciane—Subject to Appropriations		2	2	2	2	8
1037 Reimbursement for Vocational Rehabilitation Services during certain months of Nonpayment of SSI—Estimated Direct Spending						
1038 Extend Period of Presumptive SSI Eligibility from 3 to 6 months—Estimated Direct Spending:						
SSI	1	2	2	2	2	9
Medicaid	1	1	1	1	2	6
Subtotal	2	3	3	3	4	15
1039 Continuing Disability and Blindness Reviews—Estimated Direct Spending						
Subtitle C—Subtotal:						
Estimated Direct Spending	2	3	3	3	4	15
Subject to Appropriations		2	2	2	2	8
Subtitle D—Aid to families with dependent children:						
1041 Optional Monthly Reporting and Retrospective Budgeting—Estimated Direct Spending						
1042 Treatment of Foster Care Maintenance Payments and Adoption Assistance—Estimated Direct Spending		1	1	1	1	4
1043 Eliminating the Use of the Term "Legal Guardina"—Estimated Direct Spending	0	0	0	0	0	0
1044 Reporting of Child Abuse and Neglect—Estimated Direct Spending						
1045 Permissible Uses of AFDC Information—Estimated Direct Spending	0	0	0	0	0	0
1046 Repatriation—Estimated Direct Spending	2	2	0	0	0	4
1047 Children's Commission Reporting Date—Subject to Appropriations	0	0	0	0	0	0
1048 Minnesota Family Investment Plan—Estimated Direct Spending	0	0	0	0	0	0
1049 Moratorium on Panel Regulations on Emergency Assistance—Estimated Direct Spending	0	0	0	0	0	0
Subtitle D—Subtotal:						
Estimated Direct Spending		1	1	1	1	4
Subject to Appropriations	2	2	0	0	0	4
Subtitle E—Child welfare and foster care:						
1051 Clarification of Terminology Relating to Administrative Costs—Estimated Direct Spending	0	0	0	0	0	0
1052 Section 427 Triennal Reviews—Estimated Direct Spending		0	0	0	0	0
1053 Independent Living to Age 21 at State Option—Estimated Direct Spending	0	0	0	0	0	0
Subtitle E—Subtotal: Estimated Direct Spending	0	0	0	0	0	0
Title I—Subtotal:						
Estimated Direct Spending	3	5	6	6	8	28
Subject to Appropriations	2	4	2	2	2	12

H.R. 5828, AS ORDERED REPORTED BY THE COMMITTEE ON WAYS AND MEANS—Continued

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995	Total 1991-1995
TITLE 11—OLD—AGE, SURVIVORS, AND DISABILITY INSURANCE						
2001 Continuation of Disability Benefits During Appeal—Estimated Direct Spending:						
Social Security	6	27	37	44	52	166
Medicare	2	13	16	18	20	70
Subtotal	9	40	53	62	71	235
2002 Repeal of Special Disability Strandard for Widows and Widowers—Estimated Direct Spending						
Social Security	26	62	76	92	107	363
SSI	−9	−19	−24	−32	−36	−120
Medicare	8	18	44	60	77	207
Medicaid	−4	−10	−13	−17	−20	−64
Subtotal	21	51	83	103	128	385
2003 Dependency Requirements Applicable to a Child Adopted by a Surviving Spouse—Estimated Direct Spending		1	1	2	2	6
2004 Entitlement to Benefits of Deemed Spouse and Legal Spouse—Estimated Direct Spending	1	5	11	14	15	46
2005 Representative Payee Reforms—Subject to Appropriations:						
Social Security	12	3	3	3	3	24
SSI	5	1	2	2	2	12
Subtotal Authorizations	17	4	5	5	5	36
2006 Fees for Representation of Claimants in Administrative Proceedings:						
Subject to Appropriations	−3	−5	−5	−5	−6	−24
Estimated Direct Spending	15	14	5	2	2	38
Subtotal	12	9		−3	−4	14
2007 Notice Requirements—Subject to Appropriations						
2008 Applicability of Administration Res Adjudicates—Estimated Direct Spending						
2009 Telephone Access to the Social Security Administration—Subject to Appropriations	*	1	1	1	1	4
2010 Vocational Rehabilitation Demonstration Projects—Subject to Appropriations	1	3	3	0	0	7
2011 Exemption of Certain Aliens. Receiving Amnesty under the Immigration and Nationality Act. from Prosecution for Misreporting of Earnings or Misuse of Social Security Account Numbers or Socal Security Cards—Estimated Direct Spending						
2012 Reduction of Amount of Wages Needed to Earn a Year of Coverage Applicable in Determining Special Minimum Primary Insurance Amount—Estimated Direct Spending						
2013 Elimination of Eligibility Retroactive Benefits for Certain Individuals Eligible For Reduced Benefits—Estimated Direct Spending	−134	−149	−147	−144	−139	−713
2014 Charging of Earnings of Corporate Directors—Estimated Revenues						
2015 Collection of Employee Social Security and Railroad Retirement Taxes on taxable Group-Term Life Insurance Provided to Retirees—Estimated Revenues						
2016 Consolidation of Old Methods of Computing Primary Insurance Amounts—Estimated Direct Spending						

H.R. 5828, AS ORDERED REPORTED BY THE COMMITTEE ON WAYS AND MEANS—Continued

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995	Total 1991-1995
2017 Suspension of Dependent's Benefits When the Worker is in an Extended Period of Eligibility—Estimated Direct Spending	0	0	0	0	0	0
2018 Tier 1 Railroad Retirement Tax Rates Explicitly Determined by Reference to Social Security Texas—Subject to Appropriations	0	0	0	0	0	0
2019 Transfer to Railroad Retirement Account—Estimated Direct Spending	0	0	0	0	0	0
2020 Waiver of 2-Year Waiting Period for Independent Entitlement to Divorced Spouse's Benefits—Estimated Direct Spending	1	1	1	1	1	5
2021 Modification of the Preeffectuation Review Requirement Applicable to Disability Insurance—Estimated Direct Spending	−2	−5	−5	−6	−8	−26
2022 Increase Exempt Earnings Limit for Ages 65–69—Estimated Direct Spending	0	0	285	545	605	1,435
2023 Eliminate Benefit Recomputations for Certain Recipients Over Age 69—Estimated Direct Spending	0		−300	−500	−700	−1,500
2024 Miscellaneous Technical Corrections	0	0	0	0	0	0
Title II—Subtotal:						
Estimated Direct Spending	−89	−42	−13	79	−23	−89
Subject to Appropriations	15	3	4	1	0	23
Estimated Revenues						
TITLE III—MISCELLANEOUS AND TECHNICAL AMENDMENTS RELATING TO THE MEDICARE PROGRAM						
Subtitle A—No-Cost Provisions:						
3001 Patient self-determination—Estimated Direct Spending						
3002 Miscellaneous and technical provisions relating to part A—Estimated Direct Spending	0	0	0	0	0	0
3003 Miscellaneous and technical provisions relating to part B—Estimated Direct Spending	0	0	0	0	0	0
3004 Provisions relating to health maintenance organizations—Estimated Direct Spending	0	0	0	0	0	0
3005 Standards for medicare supplemental insurance—Estimated Direct Spending	0	0	0	0	0	0
3006 Miscellaneous and technical provisions relating to part A and part B—Estimated Direct Spending	0	1	1	1	1	4
Subtitle A—Subtotal: Estimated Direct Spending	0	1	1	1	1	1
Subtitle B—Medicare Initiatives:						
3101 PPS-exempt hospital adjustment—Estimated Direct Spending	0	20	35	40	45	140
3102 Hospital physician education recoupment—Estimated Direct Spending	120	130	10	−100	−100	60
3103 University hospital nursing education—Estimated Direct Spending	110	120	120	85	50	485
3104 Community health centers and rural health clinics—Estimated Direct Spending	0	35	40	45	50	170
3105 Nurse anesthetists fees—Estimated Direct Spending	0	105	130	145	165	545
3106 Partial hospitalization services in community mental health centers—Estimated Direct Spending	0	11	14	16	18	59
3107 Rural blood laboratories—Estimated Direct Spending	0	15	15	20	20	70
3108 Psychology services for inpatients—Estimated Direct Spending			1	1	1	3
3109 End stage renal disease rates—Estimated Direct Spending	0	55	85	90	95	325

H.R. 5828, AS ORDERED REPORTED BY THE COMMITTEE ON WAYS AND MEANS—Continued

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995	Total 1991-1995
3110 Self-administration of erythropoietin (EOP)—Estimated Direct Spending	0	25	25	25	30	105
3111 Radiology services—Estimated Direct Spending	2	3	4	4	5	18
3112 Hospice benefit extension—Estimated Direct Spending			1	1	1	3
Subtitle B—Subtotal: Estimated Direct Spending	232	519	480	372	380	1,983
Subtitle C—Medicare Program Cost Reduction:						
3201 Extend DRG payment window to exclude weekends—Estimated Direct Spending	−15	−25	−30	−30	−35	−135
3202 Reduction in payments for overpriced physicians' services—Estimated Direct Spending	−55	−95	−105	−115	−130	−500
3203 Interpretation of EKG's—Estimated Direct Spending	−125	−65	0	0	0	−190
3204 Payments for hospital outpatient capital—Estimated Direct Spending	0	0	0	−110	−120	−320
3205 Payments for hospital outpatient services—Estimated Direct Spending	−50	−85	−110	−135	−140	−520
3206 Coverage for seatlifts—Estimated Direct Spending	−25	−45	−50	−55	−60	−235
3207 Reduction in payments for TENS devices—Estimated Direct Spending	−4	−5	−6	−6	−7	−28
3208 Clinical laboratory services—Estimated Direct Spending	−5	−15	−20	−25	−25	−90
3209 Secondary payer for end stage renal disease—Estimated Direct Spending	0	−20	−20	−25	−25	−90
Subtitle C—Subtotal: Estimated Direct Spending	−279	−355	−341	−501	−632	−2,108
Title III—Subtotal: Estimated Direct Spending	−47	165	140	−128	−251	−121
Total—Titles I, II, and II:						
Estimated Direct Spending	−133	128	133	−43	−266	−182
Subject to Appropriations	17	7	6	3	2	35
Estimated Direct Spending						

Note: Because final Legislative language was not available at the time this estimate was prepared, the estimates are preliminary and could change when final language is reviewed.

IV. OTHER MATTERS REQUIRED TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. VOTE OF THE COMMITTEE

In compliance with clause (2)(l)(2)(B) of Rule XI of the Rules of the House of Representatives, the Committee states that the bill was ordered favorably reported to the House of Representatives on October 17, 1990 by a voice vote.

B. OVERSIGHT FINDINGS

In compliance with clause (2)(l)(3)(A) of Rule XI of the Rules of the House of Representatives, the Committee reports that the need for this legislation has been confirmed by oversight hearings held by the Subcommittees on Human Resources, Social Security and Health.

Human Resources

On April 24, 1990, the Subcommittee on Human Resources solicited written comments from the public on a range of miscellaneous human resources amendments, many of which are contained in

this bill. On June 19, 1990, the Subcommitte published a compilation of the comments received (WMCP: 101-31).

In addition, during the 101st Congress, the Subcommittee on Human Resources held the following hearings:

On March 2, 1989, the Subcommittee held a hearing, jointly with the Select Committee on Aging, on the Supplemental Security Income program (Serial 101-6).

On March 22, 1989, the Subcommittee held a hearing, jointly with the Subcommittee on Social Security, on the use of representative payees in the social security and SSI programs (Serial 101-35).

On May 22 and June 5, 1989, the Subcommittee held field hearings in Texas and New York on programs and services designed to prevent unnecessary foster care placement (Serial 101-13).

On May 24, 1989, the Subcommittee held a hearing on reforming the unemployment compensation system (Serial 101-57).

On May 30, 1989, the Subcommittee held a hearing on proposals to improve the SSI program (Serial 101-38).

On June 1, 1989, the Subcommittee held a hearing on proposals to improve the foster care and child welfare programs (Serial 101-53).

On February 22 and 26, 1990, the Subcommittee held hearings on the Unemployment Compensation Reform Act of 1990 (H.R. 3896) (Serial 101-85).

On April 4 and 5, 1990, the Subcommittee held hearings on Federally funded child welfare, foster care and adoption assistance programs (serial 101-90).

Social Security

During the 101st Congress the Subcommittee on Social Security held the following hearings:

On March 1, 1989, the Subcommittee held a hearing on H.R. 791, a bill to establish the Social Security Administration as an independent agency (Serial 101-3).

On March 22, 1990, the Subcommittee held a hearing, jointly with the Subcommittee on Human Resources, on the use of representative payees in the social security and SSI programs (Serial 101-35).

On May 25, 1989, the Subcommittee held a hearing on proposals to liberalize the social security retirement test and to repeal certain social security benefits (Serial 101-18).

On February 21, 1990, the Subcommittee held a hearing on the Social Security Administration's 800 number telephone service (Serial 101-83).

On March 20, 1990, the Subcommittee held a hearing on the President's Fiscal Year 1991 budget proposals related to social security (Serial 101-79).

On April 5, 1990, the Subcommittee held a hearing on social security benefits for widows and spouses (Serial 101-91).

Health

During the second session of the 101st Congress, the Subcommittee on Health held the following hearings:

On February 27, 1990, the Subcommittee held a hearing on H.R. 3880, a bill to expand Medicare to include mammography screening, home health, respite and hospice benefits (Serial 101-76).

On February 28, 1990, the Subcommittee held a hearing on fiscal year 1991 budget issues relating to hospital payment under Part A of the Medicare program (Serial 101-77).

On March 13, 1990, the Subcommittee held a hearing on Medicare Supplement Policies (Serial 101-74).

On March 29, 1990, the Subcommittee held a hearing on fiscal year 1991 budget issues relating to physician payments under Part B of the Medicare program (Serial 101-81).

On April 4, 1990, the Subcommittee held a hearing on fiscal year 1991 budget issues relating to payment of innercity and rural hospitals under Part A of the Medicare program (Serial 101-89).

On May 3, 1990, the Subcommittee held a hearing on fiscal year 1991 budget issues relating to the increase in the volume of Medicare physician services (Serial 101-101).

On May 8, 1990, the Subcommittee held a hearing on fiscal year 1991 budget issues relating to the increase in the volume of Medicae physician services (Serial 101-100).

On May 10, 1990, the Subcommittee held a hearing on fiscal year 1991 budget issues relating to prospective payment for certain services under the Medicare program. (Not yet printed).

On May 22, 1990, the Subcommittee held a hearing on fiscal year 1991 budget issues relating to durable medical equipment, clinical laboratory services, and other issues, such as patient self-determination, under the Medicare program (Serial 101-103).

On June 14, 1990, the Subcommittee held a hearing on fiscal year 1991 reconciliation issues relating to Medicare waste and abuse (Serial 101-109).

C. OVERSIGHT BY COMMITTEE ON GOVERNMENT OPERATIONS

In compliance with clause (2) (l)(3)(D) of Rule XI, of the Rules of the House of Representatives, the Committee states that no oversight findings or recommendations have been submitted to this Committee by the Committee on Government Operations with respect to the subject matter contained in this bill.

D. INFLATION IMPACT

In compliance with clause (2) (l)(4) of Rule XI of the Rules of the House of Representatives, the Committee states that H.R. 5828, as reported, is not expected to have any inflationary impact on the economy.

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United States of America

No. 149—Part II

Congressional Record

PROCEEDINGS AND DEBATES OF THE 101st CONGRESS, SECOND SESSION

Vol. 136 WASHINGTON, FRIDAY, OCTOBER 26, 1990 No. 149—Part II

House of Representatives

CONFERENCE REPORT ON H.R. 5835, OMNIBUS BUDGET RECONCILIATION ACT OF 1990

Mr. PANETTA submitted the following conference report and statement on the bill (H.R. 5835) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1991:

CONFERENCE REPORT (H. REPT. 101-964)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. Res. 5835) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1991, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Budget Reconciliation Act of 1990".

SEC. 2. TABLE OF TITLES.

Title I. Agriculture and related programs.
Title II. Banking, housing, and related programs.
Title III. Student loans and labor provisions.
Title IV. Medicare, medicaid, and other health-related programs.
Title V. Income security, human resources, and related programs.
Title VI. Energy and environmental programs.
Title VII. Civil service and postal service programs.
Title VIII. Veterans' programs.
Title IX. Transportation.
Title X. Miscellaneous user fees and other provisions.
Title XI. Revenue provisions.
Title XII. Pensions.
Title XIII. Budget enforcement.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

101st Congress 2d Session | HOUSE OF REPRESENTATIVES | Report 101-964

OMNIBUS BUDGET RECONCILIATION ACT OF 1990

CONFERENCE REPORT

TO ACCOMPANY

H.R. 5835

October 27 (legislative day, October 26), 1990.—Ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE
35-428 WASHINGTON : 1990

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

101st CONGRESS
2d Session } HOUSE OF REPRESENTATIVES { REPORT
101-964

OMNIBUS BUDGET RECONCILIATION ACT OF 1990

OCTOBER 27 (legislative day, OCTOBER 26), 1990.—Ordered to be printed

Mr. PANETTA, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 5835]

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Title VII. Civil service and postal service programs.
Title VIII. Veterans' programs.
Title IX. Transportation.
Title X. Miscellaneous user fees and other provisions.
Title XI. Revenue provisions.
Title XII. Pensions.
Title XIII. Budget enforcement.

TITLE IV—MEDICARE, MEDICAID, AND OTHER HEALTH-RELATED PROGRAMS

Subtitle A—Medicare

SEC. 4000. REFERENCES IN SUBTITLE; TABLE OF CONTENTS.

(a) AMENDMENTS TO THE 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) TABLE OF CONTENTS.—The table of contents of this subtitle is as follows:

Sec. 4000. References in subtitle; table of contents.

PART 1—PROVISIONS RELATING TO PART A

Sec. 4001. Payments for capital-related costs of inpatient hospital services.
Sec. 4002. Prospective payment hospitals.
Sec. 4003. Expansion of DRG payment window.
Sec. 4004. Payments for medical education costs.
Sec. 4005. PPS-exempt hospitals.
Sec. 4006. Hospice benefit extension.
Sec. 4007. Freeze in payments under part A through December 31.
Sec. 4008. Miscellaneous and technical provisions relating to part A.

PART 2—PROVISIONS RELATING TO PART B

SUBPART A—PAYMENT FOR PHYSICIANS' SERVICES

Sec. 4101. Certain overvalued procedures.
Sec. 4102. Radiology services.
Sec. 4103. Anesthesia services.
Sec. 4104. Physician pathology services.
Sec. 4105. Update for physicians' services.
Sec. 4106. New physicians and other new health care practitioners.
Sec. 4107. Assistants at surgery.
Sec. 4108. Technical components of certain diagnostic tests.
Sec. 4109. Interpretation of electrocardiograms.
Sec. 4110. Reciprocal billing arrangements.
Sec. 4111. Study of prepayment medical review screens.
Sec. 4112. Practicing physicians advisory council.
Sec. 4113. Study of aggregation rule for claims for similar physicians' services.
Sec. 4114. Utilization screens for physician visits in rehabilitation hospitals.
Sec. 4115. Study of regional variations in impact of medicare physician payment reform.
Sec. 4116. Limitation on beneficiary liability.
Sec. 4117. Statewide fee schedule areas for physicians' services.
Sec. 4118. Technical corrections.

SUBPART B—OTHER ITEMS AND SERVICES

Sec. 4151. Payments for hospital outpatient services.
Sec. 4152. Durable medical equipment.
Sec. 4153. Provisions relating to orthotics and prosthetics.
Sec. 4154. Clinical diagnostic laboratory tests.
Sec. 4155. Coverage of nurse practitioners in rural areas.
Sec. 4156. Coverage of injectable drugs for treatment of osteoporosis.
Sec. 4157. Separate payment under part B for services of certain health practitioners.
Sec. 4158. Reduction in payments under part B during final 2 months of 1990.
Sec. 4159. Payments for medical education costs.
Sec. 4160. Certified registered nurse anesthetists.
Sec. 4161. Community health centers and rural health clinics.
Sec. 4162. Partial hospitalization in community mental health centers.
Sec. 4163. Coverage of screening mammography.
Sec. 4164. Miscellaneous and technical provisions relating to part B.

PART 3—PROVISIONS RELATING TO PARTS A AND B

Sec. 4201. Provisions relating to end stage renal disease.
Sec. 4202. Staff-assisted home dialysis demonstration project.
Sec. 4203. Extension of secondary payor provisions.
Sec. 4204. Health maintenance organizations.
Sec. 4205. Peer review organizations.
Sec. 4206. Medicare provider agreements assuring the implementation of a patient's right to participate in and direct health care decisions affecting the patient.
Sec. 4207. Miscellaneous and technical provisions relating to parts A and B.

PART 4—PROVISIONS RELATING TO PART B PREMIUM AND DEDUCTIBLE

Sec. 4301. Part B premium.
Sec. 4302. Part B deductible.

PART 5—MEDICARE SUPPLEMENTAL INSURANCE POLICIES

Sec. 4351. Simplification of medicare supplemental policies.
Sec. 4352. Guaranteed renewability.
Sec. 4353. Enforcement of standards.
Sec. 4354. Preventing duplication.
Sec. 4355. Loss ratios and refund of premiums.
Sec. 4356. Clarification of treatment of plans offered by health maintenance organizations.
Sec. 4357. Pre-existing condition limitations and limitation on medical underwriting.
Sec. 4358. Medicare select policies.
Sec. 4359. Health insurance advisory services for medicare beneficiaries.
Sec. 4360. Health insurance information, counseling, and assistance grants.
Sec. 4361. Medicare and medigap information by telephone.

PART 3—PROVISIONS RELATING TO PARTS A AND B

SEC. 4203. EXTENSION OF SECONDARY PAYOR PROVISIONS.

(a) EXTENSION OF TRANSFER OF DATA.—

(1) Section 1862(b)(5)(C)(iii) (42 U.S.C. 1395y(b)(5)(C)(iii)) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

(2) Section 6103(l)(12)(F) of the Internal Revenue Code of 1986 is amended—

(A) in clause (i), by striking "September 30, 1991" and inserting "September 30, 1995";

(B) in clause (ii)(I), by striking "1990" and inserting "1994"; and

(C) in clause (ii)(II), by striking "1991" and inserting "1995".

(b) EXTENSION OF APPLICATION TO DISABLED BENEFICIARIES.—Section 1862(b)(1)(B)(iii) (42 U.S.C. 1395y(b)(1)(B)(iii)) is amended by striking "January 1, 1992" and inserting "October 1, 1995".

(c) 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 clause (i), by striking "during the 12-month period" and all that follows and inserting "during the 12-month period which begins with the first month in which the individual becomes entitled to benefits under part A under the provisions of section 226A, or, if earlier, the first month in which the individual would have been entitled to benefits under such part under the provisions of section 226A if the individual had filed an application for such benefits; and"

(B) in the matter following clause (ii), by adding at the end the following: "Effective for items and services furnished on or after February 1, 1991, and on or before January 1, 1996, (with respect to periods beginning on or after February 1, 1990), clauses (i) and (ii) shall be applied by substituting '18-month' for '12-month' each place it appears.".

(2) GAO STUDY OF EXTENSION OF SECONDARY PAYER PERIOD.—(A) The Comptroller General shall conduct a study of the impact of the application of clause (iii) of section 1862(b)(1)(C) of the Social Security Act on individuals entitled to benefits under title XVIII of such Act by reason of section 226A of such Act, and shall include in such report information relating to—

(i) the number (and geographic distribution) of such individuals for whom medicare is secondary;

(ii) the amount of savings to the medicare program achieved annually by reason of the application of such clause;

(iii) the effect on access to employment, and employment-based health insurance, for such individuals and their family members (including coverage by employment-based health insurance of cost-sharing requirements under medicare after such employment-based insurance becomes secondary);

(iv) the effect on the amount paid for each dialysis treatment under employment-based health insurance;

(v) the effect on cost-sharing requirements under employment-based health insurance (and on out-of-pocket expenses of such individuals) during the period for which medicare is secondary;

(vi) the appropriateness of applying the provisions of section 1862(b)(1)(C) to all group health plans.

(B) The Comptroller General shall submit a preliminary report on the study conducted under subparagraph (A) to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate not later than January 1, 1993, and a final report on such study not later than January 1, 1995.

(d) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act and the amendment made by subsection (a)(2)(B) shall apply to requests made on or after such date.

PART 4—PROVISIONS RELATING TO MEDICARE PART B PREMIUM AND DEDUCTIBLE

SEC. 4301. PART B PREMIUM.

Section 1839(e)(1) (42 U.S.C. 1395r(e)(1)) is amended—

(1) by inserting "(A)" after "(e)(1)", and

(2) by adding at the end the following new subparagraph:

"(B) Notwithstanding the provisions of subsection (a), the monthly premium for each individual enrolled under this part for each month in—

"(i) 1991 shall be $29.90,

"(ii) 1992 shall be $31.80,

"(iii) 1993 shall be $36.60,

"(iv) 1994 shall be $41.10, and

"(v) 1995 shall be $46.10.".

PART 5—MEDICARE SUPPLEMENTAL INSURANCE POLICIES

SEC. 4359. HEALTH INSURANCE ADVISORY SERVICE FOR MEDICARE BENEFICIARIES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall establish a health insurance advisory service program (in this section referred to as the "beneficiary assistance program") to assist medicare-eligible individuals with the receipt of services under the medicare and medicaid programs and other health insurance programs.

(b) OUTREACH ELEMENTS.—The beneficiary assistance program shall provide assistance—

(1) through operation using local Federal offices that provide information on the medicare program,

(2) using community outreach programs, and

(3) using a toll-free telephone information service.

(c) ASSISTANCE PROVIDED.—The beneficiary assistance program shall provide for information, counseling, and assistance for medicare-eligible individuals with respect to at least the following:

(1) With respect to the medicare program—

(A) eligibility,

(B) benefits (both covered and not covered),

(C) the process of payment for services,

(D) rights and process for appeals of determinations,

(E) other medicare-related entities (such as peer review organizations, fiscal intermediaries, and carriers), and

(F) recent legislative and administrative changes in the medicare program.

(2) With respect to the medicaid program—

(A) eligibility, benefits, and the application process,

(B) linkages between the medicaid and medicare programs, and

(C) referral to appropriate State and local agencies involved in the medicaid program.

(3) With respect to medicare supplemental policies—

(A) the program under section 1882 of the Social Security Act and standards required under such program,

(B) how to make informed decisions on whether to purchase such policies and on what criteria to use in evaluating different policies,

(C) appropriate Federal, State, and private agencies that provide information and assistance in obtaining benefits under such policies, and

(D) other issues deemed appropriate by the Secretary.

The beneficiary assistance program also shall provide such other services as the Secretary deems appropriate to increase beneficiary understanding of, and confidence in, the medicare program and to improve the relationship between beneficiaries and the program.

(d) EDUCATIONAL MATERIAL.—*The Secretary, through the Administrator of the Health Care Financing Administration, shall develop appropriate educational materials and other appropriate techniques to assist employees in carrying out this section.*

(e) NOTICE TO BENEFICIARIES.—*The Secretary shall take such steps as are necessary to assure that medicare-eligible beneficiaries and the general public are made aware of the beneficiary assistance program.*

(f) REPORT.—*The Secretary shall include, in an annual report transmitted to the Congress, a report on the beneficiary assistance program and on other health insurance informational and counseling services made available to medicare-eligible individuals. The Secretary shall include in the report recommendations for such changes as may be desirable to improve the relationship between the medicare program and medicare-eligible individuals.*

SEC. 4361. MEDICARE AND MEDIGAP INFORMATION BY TELEPHONE.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.) is amended by inserting after section 1888 the following:

"MEDICARE AND MEDIGAP INFORMATION BY TELEPHONE

"SEC. 1889. The Secretary shall provide information via a toll-free telephone number on the programs under this title and on medicare supplemental policies as defined in section 1882(g)(1) (including the relationship of State programs under title XIX to such policies).".

(b) DEMONSTRATION PROJECTS.—The Secretary of Health and Human Services is authorized to conduct demonstration projects in up to 5 States for the purpose of establishing statewide toll-free telephone numbers for providing information on medicare benefits, medicare supplemental policies available in the State, and benefits under the State medicaid program.

Subtitle B—Medicaid

PART 1—REDUCTION IN SPENDING

Sec. 4401. Reimbursement for prescribed drugs.
Sec. 4402. Requiring medicaid payment of premiums and cost-sharing for enrollment under group health plans where cost-effective.

PART 2—PROTECTION OF LOW-INCOME MEDICARE BENEFICIARIES

Sec. 4501. Phased-in extension of medicaid payments for medicare premiums for certain individuals with income below 120 percent of the official poverty line.

PART 3—IMPROVEMENTS IN CHILD HEALTH

Sec. 4601. Medicaid child health provisions.
Sec. 4602. Mandatory use of outreach locations other than welfare offices.
Sec. 4603. Mandatory continuation of benefits throughout pregnancy or first year of life.
Sec. 4604. Adjustment in payment for hospital services furnished to low-income children under the age of 6 years.
Sec. 4605. Presumptive eligibility.
Sec. 4606. Role in paternity determinations.
Sec. 4607. Report and transition on errors in eligibility determinations.

PART 4—MISCELLANEOUS

SUBPART A—PAYMENTS

Sec. 4701. State medicaid matching payments through voluntary contributions and State taxes.
Sec. 4702. Disproportionate share hospitals: counting of inpatient days.
Sec. 4703. Disproportionate share hospitals: alternative State payment adjustments and systems.
Sec. 4704. Federally-qualified health centers.
Sec. 4705. Hospice payments.
Sec. 4706. Limitation on disallowances or deferral of Federal financial participation for certain inpatient psychiatric hospital services for individuals under age 21.
Sec. 4707. Treatment of interest on Indiana disallowance.
Sec. 4708. Billing for services of substitute physician.

SUBPART B—ELIGIBILITY AND COVERAGE

Sec. 4711. Home and community-based care as optional service.
Sec. 4712. Community supported living arrangements services.
Sec. 4713. Providing Federal medical assistance for payments for premiums for "COBRA" continuation coverage where cost effective.
Sec. 4714. Provisions relating to spousal impoverishment.
Sec. 4715. Disregarding German reparation payments from post-eligibility treatment of income under the medicaid program.
Sec. 4716. Amendments relating to medicaid transition provision.
Sec. 4717. Clarifying effect of hospice election.
Sec. 4718. Medically needy income levels for certain 1-member families.
Sec. 4719. Codification of coverage of rehabilitation services.
Sec. 4720. Personal care services for Minnesota.
Sec. 4721. Medicaid coverage of personal care services outside the home.
Sec. 4722. Medicaid coverage of alcoholism and drug dependency treatment services.
Sec. 4723. Medicaid spenddown option.
Sec. 4424. Optional State medicaid disability determinations independent of the Social Security Administration.

SUBPART C—HEALTH MAINTENANCE ORGANIZATIONS

Sec. 4731. Regulation of incentive payments to physicians.
Sec. 4732. Special rules.
Sec. 4733. Extension and expansion of Minnesota prepaid medicaid demonstration project.
Sec. 4734. Treatment of certain county-operated health insuring organizations.

SUBPART D—DEMONSTRATION PROJECTS AND HOME AND COMMUNITY-BASED WAIVERS

Sec. 4741. Home and community-based waivers.
Sec. 4742. Timely payment under waivers of freedom of choice of hospital services.
Sec. 4744. Provisions relating to frail elderly demonstration project waivers.
Sec. 4745. Demonstration projects to study the effect of allowing States to extend medicaid coverage to certain low-income families not otherwise qualified to receive medicaid benefits.
Sec. 4746. Medicaid respite demonstration project extended.
Sec. 4747. Demonstration project to provide medicaid coverage for HIV-positive individuals.

SUBPART E—MISCELLANEOUS

Sec. 4751. Requirements for advanced directives under State plans for medical assistance.
Sec. 4752. Improvement in quality of physician services.
Sec. 4753. Clarification of authority of Inspector General.
Sec. 4754. Notice to State medical boards when adverse actions taken.
Sec. 4755. Miscellaneous provisions.

PART 5—PROVISIONS RELATING TO NURSING HOME REFORM

Sec. 4801. Technical corrections relating to nursing home reform.

PART 2—PROTECTION OF LOW-INCOME MEDICARE BENEFICIARIES

SEC. 4501. PHASED-IN EXTENSION OF MEDICAID PAYMENTS FOR MEDICARE PREMIUMS FOR CERTAIN INDIVIDUALS WITH INCOME BELOW 120 PERCENT OF THE OFFICIAL POVERTY LINE.

(a) 1-YEAR ACCELERATION OF BUY-IN OF PREMIUMS AND COST SHARING FOR QUALIFIED MEDICARE BENEFICIARIES UP TO 100 PERCENT OF POVERTY LINE.—Section 1905(p)(2) (42 U.S.C. 1396d(p)(2)) is further amended—

(1) in subparagraph (B)—

(A) by adding "and" at the end of clause (ii);

(B) in clause (iii), by striking "95 percent, and" and inserting "100 percent."; and

(C) by striking clause (iv); and

(2) in subparagraph (C)—

(A) in clause (iii), by striking "90" and inserting "95";

(B) by adding "and" at the end of clause (iii);

(C) in clause (iv), by striking "95 percent, and" and inserting "100 percent."; and

(D) by striking clause (v).

(b) ENTITLEMENT.—Section 1902(a)(10)(E) (42 U.S.C. 1395b(a)(10)(E)(ii)) is amended—

(1) by striking ", and" at the end of clause (i) and inserting a semicolon;

(2) by adding "and" at the end of clause (ii); and

(3) by adding at the end the following new clause:

"(iii) for making medical assistance available for medicare cost sharing described in section 1905(p)(3)(A)(ii) subject to section 1905(p)(4), for individuals who would be qualified medicare beneficiaries described in section 1905(p)(1) but for the fact that their income exceeds the income level established by the State under section 1905(p)(2) but is less than 110 percent in 1993 and 1994, and 120 percent in 1995 and years thereafter of the official poverty line (referred to in such section) for a family of the size involved;".

(c) APPLICATION IN CERTAIN STATES AND TERRITORIES.—Section 1905(p)(4) (42 U.S.C. 1396d(p)(4)) is amended—

(1) in subparagraph (B), by inserting "or 1902(a)(10)(E)(iii)" after "subparagraph (B)", and

(2) by adding at the end the following:

"In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115, the Secretary shall require the State to meet the requirement of section 1902(a)(10)(E) in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under this title."

(d) CONFORMING AMENDMENT.—Section 1843(h) (42 U.S.C. 1395v(h)) is amended by adding at the end the following new paragraph:

"(3) In this subsection, the term 'qualified medicare beneficiary' also includes an individual described in section 1902(a)(10)(E)(iii).".

(e) DELAY IN COUNTING SOCIAL SECURITY COLA INCREASES UNTIL NEW POVERTY GUIDELINES PUBLISHED.—

(1) IN GENERAL.—Section 1905(p) is amended—

(A) in paragraph (1)(B), by inserting ", except as provided in paragraph (2)(D)" after "supplementary social security income program", and

(B) by adding at the end of paragraph (2) the following new subparagraph:

"(D)(i) In determining under this subsection the income of an individual who is entitled to monthly insurance benefits under title II for a transition month (as defined in clause (ii)) in a year, such

income shall not include any amounts attributable to an increase in the level of monthly insurance benefits payable under such title which have occurred pursuant to section 215(i) for benefits payable for months beginning with December of the previous year.

"(ii) For purposes of clause (i), the term 'transition month' means each month in a year through the month following the month in which the annual revision of the official poverty line, referred to in subparagraph (A), is published.".

(2) CONFORMING AMENDMENTS.—Section 1902(m) (42 U.S.C. 1396a(m)) is amended—

(A) in paragraph (1)(B), by inserting ", except as provided in paragraph (2)(C)" after "supplemental security income program", and

(B) by adding at the end of paragraph (2) the following new subparagraph:

"(C) The provisions of section 1905(p)(2)(D) shall apply to determinations of income under this subsection in the same manner as they apply to determinations of income under section 1905(p).".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar quarters beginning on or after January 1, 1991, without regard to whether or not regulations to implement such amendments are promulgated by such date; except that the amendments made by subsection (e) shall apply to determinations of income for months beginning with January 1991.

PART 4—MISCELLANEOUS

Subpart B—Eligibility and Coverage

SEC. 4724. OPTIONAL STATE MEDICAID DISABILITY DETERMINATIONS INDEPENDENT OF THE SOCIAL SECURITY ADMINISTRATION.

(a) IN GENERAL.—Section 1902 (42 U.S.C. 1396a) as amended by this title, is further amended by adding at the end the following new subsection:

"(v)(1) A State plan may provide for the making of determinations of disability or blindness for the purpose of determining eligibility for medical assistance under the State plan by the single State agency or its designee, and make medical assistance available to individuals whom it finds to be blind or disabled and who are determined otherwise eligible for such assistance during the period of time prior to which a final determination of disability or blindness is made by the Social Security Administration with respect to such an individual. In making such determinations, the State must apply the definitions of disability and blindness found in section 1614(a) of the Social Security Act.".

TITLE V—INCOME SECURITY, HUMAN RESOURCES, AND RELATED PROGRAMS

Subtitle A—Human Resource and Family Policy Amendments

SEC. 5001. TABLE OF CONTENTS.

Sec. 5001. Table of contents.
Sec. 5002. Amendment of Social Security Act.

CHAPTER 1—CHILD SUPPORT ENFORCEMENT

Sec. 5011. Extension of IRS intercept for non-AFDC families.
Sec. 5012. Extension of Commission on Interstate Child Support.
Sec. 5013. Child support enforcement waiver.

CHAPTER 2—UNEMPLOYMENT COMPENSATION

Sec. 5021. "Reed Act" provisions made permanent.

CHAPTER 3—SUPPLEMENTAL SECURITY INCOME

Sec. 5031. Exclusion from income and resources of victims' compensation payments.
Sec. 5032. Attainment of age 65 not to serve as basis for termination of eligibility under section 1619(b).
Sec. 5033. Exclusion from income of impairment-related work expenses.
Sec. 5034. Treatment of royalties and honoraria as earned income.
Sec. 5035. Certain State relocation assistance excluded from SSI income and resources.
Sec. 5036. Evaluation of child's disability by pediatrician or other qualified specialist.
Sec. 5037. Reimbursement for vocational rehabilitation services furnished during certain months of nonpayment of SSI benefits.
Sec. 5038. Extension of period of presumptive eligibility for benefits.
Sec. 5039. Continuing disability or blindness reviews not required more than once annually.
Sec. 5040. Concurrent SSI and food stamp applications by institutionalized individuals.
Sec. 5041. Notification of certain individuals eligible to receive retroactive benefits.

CHAPTER 4—AID TO FAMILIES WITH DEPENDENT CHILDREN

Sec. 5051. Optional monthly reporting and retrospective budgeting.

Sec. 5052. Children receiving foster care maintenance or adoption assistance payments not treated as member of family unit for purposes of determining eligibility for, or amount of, AFDC benefit.
Sec. 5053. Elimination of term "legal guardian".
Sec. 5054. Reporting of child abuse and neglect.
Sec. 5055. Disclosure of information about AFDC applicants and recipients authorized for purposes directly connected to State foster care and adoption assistance programs.
Sec. 5056. Repatriation.
Sec. 5057. Technical amendment to National Commission on Children.
Sec. 5058. Extension of prohibition against implementation of proposed regulations on emergency assistance and AFDC special needs.
Sec. 5059. Amendments to Minnesota Family Investment Plan demonstration.
Sec. 5060. Good cause exception to required cooperation for transitional child care benefits.
Sec. 5061. Technical corrections regarding penalty for failure to participate in JOBS program.
Sec. 5062. Technical corrections regarding AFDC-UP eligibility requirements.
Sec. 5063. Family Support Act demonstration projects.
Sec. 5064. Study of JOBS programs operated by Indian Tribes and Alaska Native organizations.

CHAPTER 5—CHILD WELFARE AND FOSTER CARE

Sec. 5071. Accounting for administrative costs.
Sec. 5072. Section 427 triennial reviews.
Sec. 5073. Independent living initiatives.

CHAPTER 6—CHILD CARE

Sec. 5081. Grants to States for child care.
Sec. 5082. Child care and development block grant.

SEC. 502. AMENDMENT OF SOCIAL SECURITY ACT.

Except as otherwise expressly provided, wherever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

CHAPTER 3—SUPPLEMENTAL SECURITY INCOME

SEC. 5031. EXCLUSION FROM INCOME AND RESOURCES OF VICTIMS' COMPENSATION PAYMENTS.

(a) EXCLUSION FROM INCOME.—Section 1612(b) (42 U.S.C. 1382a(b)) is amended—

(1) by striking "and" at the end of paragraph (15);

(2) by striking the period at the end of paragraph (16) and inserting "; and"; and

(3) by adding at the end the following:

"(17) any amount received by such individual (or such spouse) from a fund established by a State to aid victims of crime.".

(b) EXCLUSION FROM RESOURCES.—Section 1613(a) (42 U.S.C. 1382b(a)) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; and"; and

(3) by adding at the end the following:

"(9) for the 9-month period beginning after the month in which received, any amount received by such individual (or such spouse) from a fund established by a State to aid victims of crime, to the extent that such individual (or such spouse) demonstrates that such amount was paid as compensation for expenses incurred or losses suffered as a result of a crime.".

(c) VICTIMS COMPENSATION AWARD NOT REQUIRED TO BE ACCEPTED AS CONDITION OF RECEIVING BENEFITS.—Section 1631(a) (42 U.S.C. 1383(a)) is amended by adding at the end the following:

"(9) Benefits under this title shall not be denied to any individual solely by reason of the refusal of the individual to accept an amount offered as compensation for a crime of which the individual was a victim.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits for months beginning on or after the first day of the 6th calendar month following the month in which this Act is enacted.

SEC. 5032. ATTAINMENT OF AGE 65 NOT TO SERVE AS BASIS FOR TERMINATION OF ELIGIBILITY UNDER SECTION 1619(b).

(a) IN GENERAL.—Section 1619(b)(1) (42 U.S.C. 1392h(b)(1)) is amended by striking "under age 65".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to benefits for months beginning on or after the first day of the 6th calendar month following the month in which this Act is enacted.

SEC. 5033. EXCLUSION FROM INCOME OF IMPAIRMENT-RELATED WORK EXPENSES.

(a) IN GENERAL.—Section 1612(b)(4)(B)(ii) (42 U.S.C. 1382a(b)(4)(B)(ii)) is amended by striking "(for purposes of determining the amount of his or her benefits under this title and of determining his or her eligibility for such benefits for consecutive months of eligibility after the initial month of such eligibility)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to benefits payable for calendar months beginning after the date of the enactment of this Act.

SEC. 5034. TREATMENT OF ROYALTIES AND HONORARIA AS EARNED INCOME.

(a) IN GENERAL.—Section 1612(a) (42 U.S.C. 1382a(a)) is amended—

(1) in paragraph (1)—

(A) by striking "and" at the end of subparagraph (C); and

(B) by adding at the end the following:

"(E) any royalty earned by an individual in connection with any publication of the work of the individual, and that portion of any honorarium which is received for services rendered; and"; and

(2) in paragraph (2)(F), by inserting "not described in paragraph (1)(E)" before the period.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to benefits for months beginning on or after the first day of the 13th calendar month following the month in which this Act is enacted.

SEC. 5035. CERTAIN STATE RELOCATION ASSISTANCE EXCLUDED FROM SSI INCOME AND RESOURCES.

(a) EXCLUSION FROM INCOME.—Section 1612(b) (42 U.S.C. 1382a(b)), as amended by section 5031(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (16);

(2) by striking the period at the end of paragraph (17) and inserting a semicolon; and

(3) by inserting after paragraph (17) the following:

"(18) relocation assistance provided by a State or local government to such individual (or such spouse), comparable to assistance provided under title II of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 which is subject to the treatment required by section 216 of such Act.".

(b) EXCLUSION FROM RESOURCES.—Section 1613(a) (42 U.S.C. 1382b(a)), as amended by section 5031(b) of this Act, is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting "; and"; and

(3) by inserting after paragraph (9) the following:

"(10) for the 9-month period beginning after the month in which received, relocation assistance provided by a State or local government to such individual (or such spouse), comparable to assistance provided under title II of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 which is subject to the treatment required by section 216 of such Act.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits for calendar months beginning in the 3-year period that begins on the first day of the 6th calendar month following the month in which this Act is enacted.

SEC. 5036. EVALUATION OF CHILD'S DISABILITY BY PEDIATRICIAN OR OTHER QUALIFIED SPECIALIST.

(a) IN GENERAL.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)) is amended by adding at the end the following:

"(H) In making any determination under this title with respect to the disability of a child who has not attained the age of 18 years and to whom section 221(h) does not apply, the Secretary shall make reasonable efforts to ensure that a qualified pediatrician or other individual who specializes in a field of medicine appropriate to the disability of the child (as determined by the Secretary) evaluates the case of such child.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to determinations made 6 or more months after the date of the enactment of this Act.

SEC. 5037. REIMBURSEMENT FOR VOCATIONAL REHABILITATION SERVICES FURNISHED DURING CERTAIN MONTHS OF NONPAYMENT OF SSI BENEFITS.

(a) IN GENERAL.—Section 1615 (42 U.S.C. 1382d) is amended by adding at the end the following:

"(e) The Secretary may reimburse the State agency described in subsection (d) for the costs described therein incurred in the provision of rehabilitation services—

"(1) for any month for which an individual received—

"(A) benefits under section 1611 or 1619(a);

"(B) assistance under section 1619(b); or

"(C) a federally administered State supplementary payment under section 1616 of this Act or section 212(b) of Public Law 93-66; and

"(2) for any month before the 13th consecutive month for which an individual, for a reason other than cessation of disability or blindness, was ineligible for—

"(A) benefits under section 1611 or 1619(a);

"(B) assistance under section 1619(b); or

"(C) a federally administered State supplementary payment under section 1616 of this Act or section 212(b) of Public Law 93-66.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to claims for reimbursement pending on or after such date.

SEC. 5038. EXTENSION OF PERIOD OF PRESUMPTIVE ELIGIBILITY FOR BENEFITS.

(a) IN GENERAL.—Section 1631(a)(4)(B) (42 U.S.C. 1383(a)(4)(B)) is amended by striking "3" and inserting "6".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to benefits for months beginning on or after the first day of the 6th calendar month following the month in which this Act is enacted.

SEC. 5039. CONTINUING DISABILITY OR BLINDNESS REVIEWS NOT REQUIRED MORE THAN ONCE ANNUALLY.

(a) IN GENERAL.—Section 1619 (42 U.S.C. 1382h) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) Subsection (a)(2) and section 1631(j)(2)(A) shall not be construed, singly or jointly, to require more than 1 determination during any 12-month period with respect to the continuing disability or blindness of an individual.".

(b) CONFORMING AMENDMENT.—Section 1631(j)(2)(A) (42 U.S.C. 1383(j)(2)(A)) is amended by inserting "(other than subsection (c) thereof)" after "1619" the 1st place such term appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5040. CONCURRENT SSI AND FOOD STAMP APPLICATIONS BY INSTITUTIONALIZED INDIVIDUALS.

Section 1631 (42 U.S.C. 1383) is amended—

(1) in subsection (m), by striking the second sentence; and

(2) by adding at the end the following:

"Concurrent SSI and Food Stamp Applications by Institutionalized Individuals

"(n) The Secretary and the Secretary of Agriculture shall develop a procedure under which an individual who applies for supplemental security income benefits under this subsection shall also be permitted to apply at the same time for participation in the food stamp program authorized under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).".

SEC. 5041. NOTIFICATION OF CERTAIN INDIVIDUALS ELIGIBLE TO RECEIVE RETROACTIVE BENEFITS.

In notifying individuals of their eligibility to receive retroactive supplemental security income benefits as a result of Sullivan v. Zebley, 110 S. Ct. 2658 (1990), the Secretary shall include written notice, in language that is easily understandable, explaining—

(1) the 6-month limitation on the exclusion from resources under section 1613(a)(7) of the Social Security Act (42 U.S.C. 1382b(a)(7));

(2) the potential effects under title XVI of the Social Security Act, attributable to the receipt of such payment, including—

(A) potential discontinuation of eligibility; and

(B) potential reductions in the amount of benefits;

(3) the possibility of establishing a trust account that would not be considered as income or resources for the purposes of such title if the trust met certain conditions; and

(4) that legal assistance in establishing such a trust may be available through legal referral services offered by a State or local bar association, or through the Legal Services Corporation.

Subtitle B—Old-Age, Survivors, and Disability Insurance

SEC. 5100. TABLE OF CONTENTS.

Sec. 5100. Table of contents.
Sec. 5101. Amendment of the Social Security Act.
Sec. 5102. Continuation of disability benefits during appeal.
Sec. 5103. Repeal of special disability standard for widows and widowers.
Sec. 5104. Dependency requirements applicable to a child adopted by a surviving spouse.
Sec. 5105. Representative payee reforms.
Sec. 5106. Fees for representation of claimants in administrative proceedings.
Sec. 5107. Applicability of administrative res judicata; related notice requirements.
Sec. 5108. Demonstration projects relating to accountability for telephone service center communications.
Sec. 5109. Notice requirements.
Sec. 5110. Telephone access to the Social Security Administration.
Sec. 5111. Amendments relating to social security account statements.
Sec. 5112. Trial work period during rolling five-year period for all disabled beneficiaries.
Sec. 5113. Continuation of benefits on account of participation in a non-state vocational rehabilitation program.
Sec. 5114. Limitation on new entitlement to special age-72 payments.
Sec. 5115. Elimination of advanced crediting to the trust funds of social security payroll taxes.
Sec. 5116. Elimination of eligibility for retroactive benefits for certain individuals eligible for reduced benefits
Sec. 5117. Consolidation of old methods of computing primary insurance amounts.
Sec. 5118. Suspension of dependent's benefits when the worker is in an extended period of eligibility.
Sec. 5119. Entitlement to benefits of deemed spouse and legal spouse.
Sec. 5120. Vocational rehabilitation demonstration projects.
Sec. 5121. Exemption for certain aliens, receiving amnesty under the Immigration and Nationality Act, from prosecution for misreporting of earnings or misuse of social security account numbers or social security cards.
Sec. 5122. Reduction of amount of wages needed to earn a year of coverage applicable in determining special minimum primary insurance amount.
Sec. 5123. Charging of earnings of corporate directors.
Sec. 5124. Collection of employee social security and railroad retirement taxes on taxable group-term life insurance provided to retirees.

Sec. 5125. Tier 1 railroad retirement tax rates explicitly determined by reference to social security taxes.
Sec. 5126. Transfer to railroad retirement account.
Sec. 5127. Waiver of 2-year waiting period for independent entitlement to divorced spouse's benefits.
Sec. 5128. Modification of the preeffectuation review requirement applicable to disability insurance cases.
Sec. 5129. Recovery of OASDI overpayments by means of reduction in tax refunds.
Sec. 5130. Miscellaneous technical corrections.

SEC. 5101. AMENDMENT OF THE SOCIAL SECURITY ACT.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

SEC. 5102. CONTINUATION OF DISABILITY BENEFITS DURING APPEAL.

Subsection (g) of section 223 (42 U.S.C. 423(g)) is amended—

(1) in paragraph (1), in the matter following subparagraph (C), by inserting "or" after "hearing,", and by striking "pending, or (iii) June 1991." and inserting "pending."; and

(2) by striking paragraph (3).

SEC. 5103. REPEAL OF SPECIAL DISABILITY STANDARD FOR WIDOWS AND WIDOWERS.

(a) IN GENERAL.—Section 223(d)(2) (42 U.S.C. 423(d)(2)) is amended—

(1) in subparagraph (A), by striking "(except a widow, surviving divorced wife, widower, or surviving divorced husband for purposes of section 202(e) or (f))";

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(b) CONFORMING AMENDMENTS.—

(1) The third sentence of section 216(i)(1) (42 U.S.C. 416(i)(1)) is amended by striking "(2)(C)" and inserting "(2)(B)".

(2) Section 223(f)(1)(B) (42 U.S.C. 423(f)(1)(B)) is amended to read as follows:

"(B) the individual is now able to engage in substantial gainful activity; or".

(3) Section 223(f)(2)(A)(ii) (42 U.S.C. 423(f)(2)(A)(ii)) is amended to read as follows:

"(ii) the individual is now able to engage in substantial gainful activity, or".

(4) Section 223(f)(3) (42 U.S.C. 423(f)(3)) is amended by striking "therefore—" and all that follows and inserting "therefore the individual is able to engage in substantial gainful activity; or".

(5) Section 223(f) is further amended, in the matter following paragraph (4), by striking "(or gainful activity in the case of a widow, surviving divorced wife, widower, or surviving divorced husband)" each place it appears.

(c) TRANSITIONAL RULES RELATING TO MEDICAID AND MEDICARE ELIGIBILITY.—

(1) DETERMINATION OF MEDICAID ELIGIBILITY.—Section 1634(d) (42 U.S.C. 1383c(d)) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by striking "(d) If any person—" and inserting "(d)(1) This subsection applies with respect to any person who—";

(C) in subparagraph (A) (as redesignated), by striking "as required" and all that follows through "but not entitled" and inserting "being then not entitled";

(D) in subparagraph (B) (as redesignated), by striking "section 1616(a)," and inserting "section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66)."; and

(E) by striking "such person shall" and all that follows and inserting the following new paragraph:

"(2) For purposes of title XIX, each person with respect to whom this subsection applies—

"(A) shall be deemed to be a recipient of supplemental security income benefits under this title if such person received such a benefit for the month before the month in which such person began to receive a benefit described in paragraph (1)(A), and

"(B) shall be deemed to be a recipient of State supplementary payments of the type referred to in section 1616(a) of this Act (or payments of the type described in section 212(a) of Public Law 93-66) if such person received such a payment for the month before the month in which such person began to receive a benefit described in paragraph (1)(A),

for so long as such person (i) would be eligible for such supplemental security income benefits, or such State supplementary payments (or payments of the type described in section 212(a) of Public Law 93-66), in the absence of benefits described in paragraph (1)(A), and (ii) is not entitled to hospital insurance benefits under part A of title XVIII.".

(2) INCLUSION OF MONTHS OF SSI ELIGIBILITY WITHIN 5-MONTH DISABILITY WAITING PERIOD AND 24-MONTH MEDICARE WAITING PERIOD.—

(A) WIDOW'S BENEFITS BASED ON DISABILITY.—Section 202(e)(5) (42 U.S.C. 402(e)(5)) is amended—

(i) in subparagraph (B), by striking "(i)" and "(ii)" and inserting "(I)" and "(II)", respectively;

(ii) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(iii) by inserting "(A)" after "(5)"; and

(iv) by adding at the end the following new subparagraph:

"(B) For purposes of paragraph (1)(F)(i), each month in the period commencing with the first month for which such widow or surviving divorced wife is first eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-66), shall be included as one of the months of such waiting period for which the requirements of subparagraph (A) have been met.".

(B) WIDOWER'S BENEFITS BASED ON DISABILITY.—Section 202(f)(6) (42 U.S.C. 402(f)(6)) is amended—

(i) in subparagraph (B), by striking "(i)" and "(ii)" and inserting "(I)" and "(II)", respectively;

(ii) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(iii) by inserting "(A)" after "(6)"; and

(iv) by adding at the end the following new subparagraph:

"(B) For purposes of paragraph (1)(F)(i), each month in the period commencing with the first month for which such widower or surviving divorced husband is first eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-66), shall be included as one of the months of such waiting period for which the requirements of subparagraph (A) have been met.".

(C) MEDICARE BENEFITS.—Section 226(e)(1) (42 U.S.C. 426(e)(1)) is amended—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(ii) by inserting "(A)" after "(e)(1)"; and

(iii) by adding at the end the following new subparagraph:

"(B) For purposes of subsection (b)(2)(A)(iii), each month in the period commencing with the first month for which an individual is first eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) of this Act (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-66), shall be included as one of the 24 months for which such individual must have been entitled to widow's or widower's insurance benefits on the basis of disability in order to become entitled to hospital insurance benefits on that basis.".

(d) DEEMED DISABILITY FOR PURPOSES OF ENTITLEMENT TO WIDOW'S AND WIDOWER'S INSURANCE BENEFITS FOR WIDOWS AND WIDOWERS ON SSI ROLLS.—

(1) WIDOW'S INSURANCE BENEFITS.—Section 202(e) (42 U.S.C. 402(e)) is amended by adding at the end the following new paragraph:

"(9) An individual shall be deemed to be under a disability for purposes of paragraph (1)(B)(ii) if such individual is eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-66), for the month for which all requirements of paragraph (1) for entitlement to benefits under this subsection (other than being under a disability) are met.".

(2) WIDOWER'S INSURANCE BENEFITS.—Section 202(f) (42 U.S.C. 402(f)) is amended by adding at the end the following new paragraph:

"(9) An individual shall be deemed to be under a disability for purposes of paragraph (1)(B)(ii) if such individual is eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in such section 1616(a) (or in section 212(b) of Public Law 93-66), for the month for which all requirements of paragraph (1) for entitlement to benefits under this subsection (other than being under a disability) are met.".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section (other than paragraphs (1) and (2)(C) of subsection (c)) shall apply with respect to monthly insurance benefits for months after December 1990 for which applications are filed on or after January 1, 1991, or are pending on such date. The amendments made by subsection (c)(1) shall apply with respect to medical assistance provided after December 1990. The amendments made by subsection (c)(2)(C) shall apply with respect to items and services furnished after December 1990.

(2) APPLICATION REQUIREMENTS FOR CERTAIN INDIVIDUALS ON BENEFIT ROLLS.—In the case of any individual who—

(A) is entitled to disability insurance benefits under section 223 of the Social Security Act for December 1990 or is eligible for supplemental security income benefits under title XVI of such Act, or State supplementary payments of the type referred to in section 1616(a) of such Act (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in such section 1616(a) (or in section 212(b) of Public Law 93-66), for January 1991,

(B) applied for widow's or widower's insurance benefits under subsection (e) or (f) of section 202 of the Social Security Act during 1990, and

(C) is not entitled to such benefits under such subsection (e) or (f) for any month on the basis of such application by reason of the definition of disability under section 223(d)(2)(B) of the Social Security Act (as in effect immediately before the date of the enactment of this Act), and would have been so entitled for such month on the basis of such application if the amendments made by this section had been applied with respect to such application,

for purposes of determining such individual's entitlement to such benefits under subsection (e) or (f) of section 202 of the Social Security Act for months after December 1990, the requirement of paragraph (1)(C)(i) of such subsection shall be deemed to have been met.

SEC. 5104. DEPENDENCY REQUIREMENTS APPLICABLE TO A CHILD ADOPTED BY A SURVIVING SPOUSE.

(a) IN GENERAL.—Section 216(e) (42 U.S.C. 416(e)) is amended in the second sentence—

(1) by striking "at the time of such individual's death living in such individual's household" and inserting "either living

with or receiving at least one-half of his support from such individual at the time of such individual's death"; and

(2) by striking "; except" and all that follows and inserting a period.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits payable for months after December 1990, but only on the basis of applications filed after December 31, 1990.

SEC. 5105. REPRESENTATIVE PAYEE REFORMS.

(a) IMPROVEMENTS IN THE REPRESENTATIVE PAYEE SELECTION AND RECRUITMENT PROCESS.—

(1) AUTHORITY FOR CERTIFICATION OF PAYMENTS TO REPRESENTATIVE PAYEES.—

(A) TITLE II.—Section 205(j)(1) (42 U.S.C. 405(j)) is amended to read as follows:

"REPRESENTATIVE PAYEES

"(j)(1) If the Secretary determines that the interest of any individual under this title would be served thereby, certification of payment of such individual's benefit under this title may be made, regardless of the legal competency or incompetency of the individual, either for direct payment to the individual, or for his or her use and benefit, to another individual, or an organization, with respect to whom the requirements of paragraph (2) have been met (hereinafter in this subsection referred to as the individual's 'representative payee'). If the Secretary or a court of competent jurisdiction determines that a representative payee has misused any individual's benefit paid to such representative payee pursuant to this subsection or section 1631(a)(2), the Secretary shall promptly revoke certification for payment of benefits to such representative payee pursuant to this subsection and certify payment to an alternative representative payee or to the individual.".

(B) TITLE XVI.—

(i) IN GENERAL.—Section 1631(a)(2)(A) (42 U.S.C. 1383(a)(2)(A)) is amended to read as follows:

"(A)(i) Payments of the benefit of any individual may be made to any such individual or to the eligible spouse (if any) of such individual or partly to each.

"(ii) Upon a determination by the Secretary that the interest of such individual would be served thereby, or in the case of any individual or eligible spouse referred to in section 1611(e)(3)(A), such payments shall be made, regardless of the legal competency or incompetency of the individual or eligible spouse, to another individual, or an organization, with respect to whom the requirements of subparagraph (B) have been met (in this paragraph referred to as such individual's 'representative payee') for the use and benefit of the individual or eligible spouse.

"(iii) If the Secretary or a court of competent jurisdiction determines that the representative payee of an individual or eligible spouse has misused any benefits which have been paid to the representative payee pursuant to clause (ii) or section 205(j)(1), the Secretary shall promptly terminate payment of benefits to the representative payee pursuant to this subparagraph, and provide for payment

of benefits to the individual or eligible spouse or to an alternative representative payee of the individual or eligible spouse.".

(ii) CONFORMING AMENDMENTS.—*Section 1631(a)(2)(C) (42 U.S.C. 1383(a)(2)(C)) is amended—*

(I) in clause (i), by striking "a person other than the individual or spouse entitled to such payment" and inserting "representative payee of an individual or spouse";

(II) in clauses (ii), (iii), and (iv), by striking "other person to whom such payment is made" each place it appears and inserting "representative payee"; and

(III) in clause (v)—

(aa) by striking "person receiving payments on behalf of another" and inserting "representative payee"; and

(bb) by striking "person receiving such payments" and inserting "representative payee".

(2) PROCEDURE FOR SELECTING REPRESENTATIVE PAYEES.—

(A) IN GENERAL.—

(i) TITLE II.—*Section 205(j)(2) (42 U.S.C. 405(j)(2)) is amended to read as follows:*

"(2)(A) Any certification made under paragraph (1) for payment of benefits to an individual's representative payee shall be made on the basis of—

"(i) an investigation by the Secretary of the person to serve as representative payee, which shall be conducted in advance of such certification and shall, to the extent practicable, include a face-to-face interview with such person, and

"(ii) adequate evidence that such certification is in the interest of such individual (as determined by the Secretary in regulations).

"(B)(i) As part of the investigation referred to in subparagraph (A)(i), the Secretary shall—

"(I) require the person being investigated to submit documented proof of the identity of such person, unless information establishing such identity has been submitted with an application for benefits under this title or title XVI,

"(II) verify such person's social security account number (or employer identification number),

"(III) determine whether such person has been convicted of a violation of section 208 or 1632, and

"(IV) determine whether certification of payment of benefits to such person has been revoked pursuant to this subsection or payment of benefits to such person has been terminated pursuant to section 1631(a)(2)(A)(iii) by reason of misuse of funds paid as benefits under this title or title XVI.

"(ii) The Secretary shall establish and maintain a centralized file, which shall be updated periodically and which shall be in a form which renders it readily retrievable by each servicing office of the Social Security Administration. Such file shall consist of—

"(I) a list of the names and social security account numbers (or employer identification numbers) of all persons with respect to whom certification of payment of benefits has been revoked

on or after January 1, 1991, pursuant to this subsection, or with respect to whom payment of benefits has been terminated on or after such date pursuant to section 1631(a)(2)(A)(iii), by reason of misuse of funds paid as benefits under this title or title XVI, and

"(II) a list of the names and social security account numbers (or employer identification numbers) of all persons who have been convicted of a violation of section 208 or 1632.

"(C)(i) Benefits of an individual may not be certified for payment to any other person pursuant to this subsection if—

"(I) such person has previously been convicted as described in subparagraph (B)(i)(III),

"(II) except as provided in clause (ii), certification of payment of benefits to such person under this subsection has previously been revoked as described in subparagraph (B)(i)(IV), or payment of benefits to such person pursuant to section 1631(a)(2)(A)(ii) has previously been terminated as described in section 1631(a)(2)(B)(ii)(IV), or

"(III) except as provided in clause (iii), such person is a creditor of such individual who provides such individual with goods or services for consideration.

"(ii) The Secretary shall prescribe regulations under which the Secretary may grant exemptions to any person from the provisions of clause (i)(II) on a case-by-case basis if such exemption is in the best interest of the individual whose benefits would be paid to such person pursuant to this subsection.

"(iii) Clause (i)(III) shall not apply with respect to any person who is a creditor referred to therein if such creditor is—

"(I) a relative of such individual if such relative resides in the same household as such individual,

"(II) a legal guardian or legal representative of such individual,

"(III) a facility that is licensed or certified as a care facility under the law of a State or a political subdivision of a State,

"(IV) a person who is an administrator, owner, or employee of a facility referred to in subclause (III) if such individual resides in such facility, and the certification of payment to such facility or such person is made only after good faith efforts have been made by the local servicing office of the Social Security Administration to locate an alternative representative payee to whom such certification of payment would serve the best interests of such individual, or

"(V) an individual who is determined by the Secretary, on the basis of written findings and under procedures which the Secretary shall prescribe by regulation, to be acceptable to serve as a representative payee.

"(iv) The procedures referred to in clause (iii)(V) shall require the individual who will serve as representative payee to establish, to the satisfaction of the Secretary, that—

"(I) such individual poses no risk to the beneficiary,

"(II) the financial relationship of such individual to the beneficiary poses no substantial conflict of interest, and

"(III) no other more suitable representative payee can be found.

"(D)(i) Subject to clause (ii), if the Secretary makes a determination described in the first sentence of paragraph (1) with respect to any individual's benefit and determines that direct payment of the benefit to the individual would cause substantial harm to the individual, the Secretary may defer (in the case of initial entitlement) or suspend (in the case of existing entitlement) direct payment of such benefit to the individual, until such time as the selection of a representative payee is made pursuant to this subsection.

"(ii)(I) Except as provided in subclause (II), any deferral or suspension of direct payment of a benefit pursuant to clause (i) shall be for a period of not more than 1 month.

"(II) Subclause (I) shall not apply in any case in which the individual is, as of the date of the Secretary's determination, legally incompetent or under the age of 15.

"(iii) Payment pursuant to this subsection of any benefits which are deferred or suspended pending the selection of a representative payee shall be made to the individual or the representative payee as a single sum or over such period of time as the Secretary determines is in the best interest of the individual entitled to such benefits.

"(E)(i) Any individual who is dissatisfied with a determination by the Secretary to certify payment of such individual's benefit to a representative payee under paragraph (1) or with the designation of a particular person to serve as representative payee shall be entitled to a hearing by the Secretary to the same extent as is provided in subsection (b), and to judicial review of the Secretary's final decision as is provided in subsection (g).

"(ii) In advance of the certification of payment of an individual's benefit to a representative payee under paragraph (1), the Secretary shall provide written notice of the Secretary's initial determination to certify such payment. Such notice shall be provided to such individual, except that, if such individual—

"(I) is under the age of 15,

"(II) is an unemancipated minor under the age of 18, or

"(III) is legally incompetent,

then such notice shall be provided solely to the legal guardian or legal representative of such individual.

"(iii) Any notice described in clause (ii) shall be clearly written in language that is easily understandable to the reader, shall identify the person to be designated as such individual's representative payee, and shall explain to the reader the right under clause (i) of such individual or of such individual's legal guardian or legal representative—

"(I) to appeal a determination that a representative payee is necessary for such individual,

"(II) to appeal the designation of a particular person to serve as the representative payee of such individual, and

"(III) to review the evidence upon which such designation is based and submit additional evidence.".

(ii) TITLE XVI.—*Section 1631(a)(2)(B) (42 U.S.C. 1383(a)(2)(B)) is amended to read as follows:*

"(B)(i) Any determination made under subparagraph (A) for payment of benefits to the representative payee of an individual or eligible spouse shall be made on the basis of—

"(I) an investigation by the Secretary of the person to serve as representative payee, which shall be conducted in advance of such payment, and shall, to the extent practicable, include a face-to-face interview with such person; and

"(II) adequate evidence that such payment is in the interest of the individual or eligible spouse (as determined by the Secretary in regulations).

"(ii) As part of the investigation referred to in clause (i)(I), the Secretary shall—

"(I) require the person being investigated to submit documented proof of the identity of such person, unless information establishing such identity was submitted with an application for benefits under title II or this title;

"(II) verify the social security account number (or employer identification number) of such person;

"(III) determine whether such person has been convicted of a violation of section 208 or 1632; and

"(IV) determine whether payment of benefits to such person has been terminated pursuant to subparagraph (A)(iii), and whether certification of payment of benefits to such person has been revoked pursuant to section 205(j), by reason of misuse of funds paid as benefits under title II or this title.

"(iii) Benefits of an individual may not be paid to any other person pursuant to subparagraph (A)(ii) if—

"(I) such person has previously been convicted as described in clause (ii)(III);

"(II) except as provided in clause (iv), payment of benefits to such person pursuant to subparagraph (A)(ii) has previously been terminated as described in clause (ii)(IV), or certification of payment of benefits to such person under section 205(j) has previously been revoked as described in section 205(j)(2)(B)(i)(IV); or

"(III) except as provided in clause (v), such person is a creditor of such individual who provides such individual with goods or services for consideration.

"(iv) The Secretary shall prescribe regulations under which the Secretary may grant an exemption from clause (iii)(II) to any person on a case-by-case basis if such exemption would be in the best interest of the individual or eligible spouse whose benefits under this title would be paid to such person pursuant to subparagraph (A)(ii).

"(v) Clause (iii)(III) shall not apply with respect to any person who is a creditor referred to therein if such creditor is—

"(I) a relative of such individual if such relative resides in the same household as such individual;

"(II) a legal guardian or legal representative of such individual;

"(III) a facility that is licensed or certified as a care facility under the law of a State or a political subdivision of a State;

"(IV) a person who is an administrator, owner, or employee of a facility referred to in subclause (III) if such individual resides in such facility, and the payment of benefits under this title to such facility or such person is made only after good faith efforts have been made by the local servicing office of the Social Security Administration to locate an alternative representative payee

to whom the payment of such benefits would serve the best interests of such individual; or

"(V) an individual who is determined by the Secretary, on the basis of written findings and under procedures which the Secretary shall prescribe by regulation, to be acceptable to serve as a representative payee.

"(vi) The procedures referred to in clause (v)(V) shall require the individual who will serve as representative payee to establish, to the satisfaction of the Secretary, that—

"(I) such individual poses no risk to the beneficiary;

"(II) the financial relationship of such individual to the beneficiary poses no substantial conflict of interest; and

"(III) no other more suitable representative payee can be found.

"(vii) Subject to clause (viii), if the Secretary makes a determination described in subparagraph (A)(ii) with respect to any individual's benefit and determines that direct payment of the benefit to the individual would cause substantial harm to the individual, the Secretary may defer (in the case of initial entitlement) or suspend (in the case of existing entitlement) direct payment of such benefit to the individual, until such time as the selection of a representative payee is made pursuant to this subparagraph.

"(viii)(I) Except as provided in subclause (II), any deferral or suspension of direct payment of a benefit pursuant to clause (vii) shall be for a period of not more than 1 month.

"(II) Subclause (I) shall not apply in any case in which the individual or eligible spouse is, as of the date of the Secretary's determination, legally incompetent, under the age 15 years, or a drug addict or alcoholic referred to in section 1611(e)(3)(A).

"(ix) Payment pursuant to this subparagraph of any benefits which are deferred or suspended pending the selection of a representative payee shall be made to the individual, or to the representative payee upon such selection, as a single sum or over such period of time as the Secretary determines is in the best interests of the individual entitled to such benefits.

"(x) Any individual who is dissatisfied with a determination by the Secretary to pay such individual's benefits to a representative payee under this title, or with the designation of a particular person to serve as representative payee, shall be entitled to a hearing by the Secretary, and to judicial review of the Secretary's final decision, to the same extent as is provided in subsection (c).

"(xi) In advance of the first payment of an individual's benefit to a representative payee under subparagraph (A)(ii), the Secretary shall provide written notice of the Secretary's initial determination to make any such payment. Such notice shall be provided to such individual, except that, if such individual—

"(I) is under the age of 15,

"(II) is an unemancipated minor under the age of 18, or

"(III) is legally incompetent,

then such notice shall be provided solely to the legal guardian or legal representative of such individual.

"(xii) Any notice described in clause (xi) shall be clearly written in language that is easily understandable to the reader, shall iden-

tify the person to be designated as such individual's representative payee, and shall explain to the reader the right under clause (x) of such individual or of such individual's legal guardian or legal representative—

"(I) to appeal a determination that a representative payee is necessary for such individual,

"(II) to appeal the designation of a particular person to serve as the representative payee of such individual, and

"(III) to review the evidence upon which such designation is based and submit additional evidence.".

(B) REPORT ON FEASIBILITY OF OBTAINING READY ACCESS TO CERTAIN CRIMINAL FRAUD RECORDS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation with the Attorney General of the United States and the Secretary of the Treasury, shall study the feasibility of establishing and maintaining a current list, which would be readily available to local offices of the Social Security Administration for use in investigations undertaken pursuant to section 205(j)(2) or 1631(a)(2)(B) of the Social Security Act, of the names and social security account numbers of individuals who have been convicted of a violation of section 495 of title 18, United States Code. The Secretary of Health and Human Services shall, not later than July 1, 1992, submit the results of such study, together with any recommendations, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(3) PROVISION FOR COMPENSATION OF QUALIFIED ORGANIZATIONS SERVING AS REPRESENTATIVE PAYEES.—

(A) IN GENERAL.—

(i) TITLE II.—Section 205(j) (42 U.S.C. 405(j)) is amended by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following new paragraph:

"(4)(A) A qualified organization may collect from an individual a monthly fee for expenses (including overhead) incurred by such organization in providing services performed as such individual's representative payee pursuant to this subsection if such fee does not exceed the lesser of—

"(i) 10 percent of the monthly benefit involved, or

"(ii) $25.00 per month.

Any agreement providing for a fee in excess of the amount permitted under this subparagraph shall be void and shall be treated as misuse by such organization of such individual's benefits.

"(B) For purposes of this paragraph, the term 'qualified organization' means any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative payee and which, in accordance with any applicable regulations of the Secretary—

"(i) regularly provides services as the representative payee, pursuant to this subsection or section 1631(a)(2), concurrently to 5 or more individuals,

"(ii) demonstrates to the satisfaction of the Secretary that such agency is not otherwise a creditor of any such individual, and

"(iii) was in existence on October 1, 1988.

The Secretary shall prescribe regulations under which the Secretary may grant an exception from clause (ii) for any individual on a case-by-case basis if such exception is in the best interests of such individual.

"(C) Any qualified organization which knowingly charges or collects, directly or indirectly, any fee in excess of the maximum fee prescribed under subparagraph (A) or makes any agreement, directly or indirectly, to charge or collect any fee in excess of such maximum fee, shall be fined in accordance with title 18, United States Code, or imprisoned not more than 6 months, or both.

"(D) This paragraph shall cease to be effective on July 1, 1994.".

(ii) TITLE XVI.—Section 1631(a)(2) (42 U.S.C. 1383(a)(2)) is amended—

(I) by redesignating subparagraph (D) as subparagraph (E);

(II) by inserting after subparagraph (C) the following:

"(D)(i) A qualified organization may collect from an individual a monthly fee for expenses (including overhead) incurred by such organization in providing services performed as such individual's representative payee pursuant to subparagraph (A)(ii) if the fee does not exceed the lesser of—

"(I) 10 percent of the monthly benefit involved, or

"(II) $25.00 per month.

Any agreement providing for a fee in excess of the amount permitted under this clause shall be void and shall be treated as misuse by the organization of such individual's benefits.

"(ii) For purposes of this subparagraph, the term 'qualified organization' means any community-based nonprofit social service agency which—

"(I) is bonded or licensed in each State in which the agency serves as a representative payee;

"(II) in accordance with any applicable regulations of the Secretary—

"(aa) regularly provides services as a representative payee pursuant to subparagraph (A)(ii) or section 205(j)(4) concurrently to 5 or more individuals;

"(bb) demonstrates to the satisfaction of the Secretary that such agency is not otherwise a creditor of any such individual; and

"(cc) was in existence on October 1, 1988.

The Secretary shall prescribe regulations under which the Secretary may grant an exception from subclause (II)(bb) for any individual on a case-by-case basis if such exception is in the best interests of such individual.

"(iii) Any qualified organization which knowingly charges or collects, directly or indirectly, any fee in excess of the maximum fee prescribed under clause (i) or makes any agreement, directly or indirectly, to charge or collect any fee in excess of such maximum fee,

shall be fined in accordance with title 18, United States Code, or imprisoned not more than 6 months, or both.

"(iv) This subparagraph shall cease to be effective on July 1, 1994.".

(B) STUDIES AND REPORTS.—

(i) REPORT BY SECRETARY OF HEALTH AND HUMAN SERVICES.—Not later than January 1, 1993, the Secretary of Health and Human Services shall transmit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the number and types of qualified organizations which have served as representative payees and have collected fees for such service pursuant to any amendment made by subparagraph (A).

(ii) REPORT BY COMPTROLLER GENERAL.—Not later than July 1, 1992, the Comptroller General of the United States shall conduct a study of the advantages and disadvantages of allowing qualified organizations serving as representative payees to charge fees pursuant to the amendments made by subparagraph (A) and shall transmit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the results of such study.

(4) STUDY RELATING TO FEASIBILITY OF SCREENING OF INDIVIDUALS WITH CRIMINAL RECORDS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a study of the feasibility of determining the type of representative payee applicant most likely to have a felony or misdemeanor conviction, the suitability of individuals with prior convictions to serve as representative payees, and the circumstances under which such applicants could be allowed to serve as representative payees. The Secretary shall transmit the results of such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than July 1, 1992.

(5) EFFECTIVE DATES.—

(A) USE AND SELECTION OF REPRESENTATIVE PAYEES.—The amendments made by paragraphs (1) and (2) shall take effect July 1, 1991, and shall apply only with respect to—

(i) certifications of payment of benefits under title II of the Social Security Act to representative payees made on or after such date; and

(ii) provisions for payment of benefits under title XVI of such Act to representative payees made on or after such date.

(B) COMPENSATION OF REPRESENTATIVE PAYEES.—The amendments made by paragraph (3) shall take effect July 1, 1991, and the Secretary of Health and Human Services shall prescribe initial regulations necessary to carry out such amendments not later than such date.

(b) IMPROVEMENTS IN RECORDKEEPING AND AUDITING REQUIREMENTS.—

(1) IMPROVED ACCESS TO CERTAIN INFORMATION.—

(A) IN GENERAL.—Section 205(j)(3) (42 U.S.C. 605(j)(3)) is amended—

(i) by striking subparagraph (B);

(ii) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively;

(iii) in subparagraph (D) (as so redesignated), by striking "(A), (B), (C), and (D)" and inserting "(A), (B), and (C)"; and

(iv) by adding at the end the following new subparagraphs:

"(E) The Secretary shall maintain a centralized file, which shall be updated periodically and which shall be in a form which will be readily retrievable by each servicing office of the Social Security Administration, of—

"(i) the address and the social security account number (or employer identification number) of each representative payee who is receiving benefit payments pursuant to this subsection or section 1631(a)(2), and

"(ii) the address and social security account number of each individual for whom each representative payee is reported to be providing services as representative payee pursuant to this subsection or section 1631(a)(2).

"(F) Each servicing office of the Administration shall maintain a list, which shall be updated periodically, of public agencies and community-based nonprofit social service agencies which are qualified to serve as representative payees pursuant to this subsection or section 1631(a)(2) and which are located in the area served by such servicing office.".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect October 1, 1992, and the Secretary of Health and Human Services shall take such actions as are necessary to ensure that the requirements of section 205(j)(3)(E) of the Social Security Act (as amended by subparagraph (A) of this paragraph) are satisfied as of such date.

(2) STUDY RELATING TO MORE STRINGENT OVERSIGHT OF HIGH-RISK REPRESENTATIVE PAYEES.—

(A) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a study of the need for a more stringent accounting system for high-risk representative payees than is otherwise generally provided under section 205(j)(3) or 1631(a)(2)(C) of the Social Security Act, which would include such additional reporting requirements, record maintenance requirements, and other measures as the Secretary considers necessary to determine whether services are being appropriately provided by such payees in accordance with such sections 205(j) and 1631(a)(2).

(B) SPECIAL PROCEDURES.—In such study, the Secretary shall determine the appropriate means of implementing more stringent, statistically valid procedures for—

(i) reviewing reports which would be submitted to the Secretary under any system described in subparagraph (A), and

(ii) periodic, random audits of records which would be kept under such a system,

in order to identify any instances in which high-risk representative payees are misusing payments made pursuant to section 205(j) or 1631(a)(2) of the Social Security Act.

(C) HIGH-RISK REPRESENTATIVE PAYEE.—For purposes of this paragraph, the term "high-risk representative payee" means a representative payee under section 205(j) or 1631(a)(2) of the Social Security Act (42 U.S.C. 405(j) and 1383(a)(2), respectively) (other than a Federal or State institution) who—

(i) regularly provides concurrent services as a representative payee under such section 205(j), such section 1631(a)(2), or both such sections, for 5 or more individuals who are unrelated to such representative payee,

(ii) is neither related to an individual on whose behalf the payee is being paid benefits nor living in the same household with such individual,

(iii) is a creditor of such individual, or

(iv) is in such other category of payees as the Secretary may determine appropriate.

(D) REPORT.—The Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study, together with any recommendations, not later than July 1, 1992. Such report shall include an evaluation of the feasibility and desirability of legislation implementing stricter accounting and review procedures for high-risk representative payees in all servicing offices of the Social Security Administration (together with proposed legislative language).

(3) DEMONSTRATION PROJECTS RELATING TO PROVISION OF INFORMATION TO LOCAL AGENCIES PROVIDING CHILD AND ADULT PROTECTIVE SERVICES.—

(A) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall implement a demonstration project under this paragraph in all or part of not fewer than 2 States. Under each such project, the Secretary shall enter into an agreement with the State in which the project is located to make readily available, for the duration of the project, to the appropriate State agency, a listing of addresses of multiple benefit recipients.

(B) LISTING OF ADDRESSES OF MULTIPLE BENEFIT RECIPIENTS.—The list referred to in subparagraph (A) shall consist of a current list setting forth each address within the State at which benefits under title II, benefits under title XVI, or any combination of such benefits are being received by 5 or more individuals. For purposes of this subparagraph, in the case of benefits under title II, all individuals receiving benefits on the basis of the wages and self-employ-

ment income of the same individual shall be counted as 1 individual.

(C) APPROPRIATE STATE AGENCY.—The appropriate State agency referred to in subparagraph (A) is the agency of the State which the Secretary determines is primarily responsible for regulating care facilities operated in such State or providing for child and adult protective services in such State.

(D) REPORT.—The Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning such demonstration projects, together with any recommendations, not later than July 1, 1992. Such report shall include an evaluation of the feasibility and desirability of legislation implementing the programs established pursuant to this paragraph on a permanent basis.

(E) STATE.—For purposes of this paragraph, the term "State" means a State, including the entities included in such term by section 210(h) of the Social Security Act (42 U.S.C. 410(h)).

(c) RESTITUTION.—

(1) TITLE II.—Section 205(j) (42 U.S.C. 405(j)) is amended by redesignating paragraph (5) (as so redesignated by subsection (a)(3)(A)(i) of this section) as paragraph (6) and by inserting after paragraph (4) (as added by subsection (a)(3)(A)(i)) the following new paragraph:

"(5) In cases where the negligent failure of the Secretary to investigate or monitor a representative payee results in misuse of benefits by the representative payee, the Secretary shall certify for payment to the beneficiary or the beneficiary's alternative representative payee an amount equal to such misused benefits. The Secretary shall make a good faith effort to obtain restitution from the terminated representative payee.".

(2) TITLE XVI.—Section 1631(a)(2) (42 U.S.C. 1383(a)(2)) is amended by redesignating subparagraph (E) (as so redesignated by subsection (a)(3)(A)(ii)(I) of this section) as subparagraph (F) and by inserting after subparagraph (D) (as added by subsection (a)(3)(A)(i)(III)) the following new subparagraph:

"(E) RESTITUTION.—In cases where the negligent failure of the Secretary to investigate or monitor a representative payee results in misuse of benefits by the representative payee, the Secretary shall make payment to the beneficiary or the beneficiary's representative payee of an amount equal to such misused benefits. The Secretary shall make a good faith effort to obtain restitution from the terminated representative payee.".

(d) REPORTS TO THE CONGRESS.—

(1) IN GENERAL.—

(A) TITLE II.—Section 205(j)(5) (as so redesignated by subsection (c)(1) of this section) is amended to read as follows:

"(5) The Secretary shall include as a part of the annual report required under section 704 information with respect to the implementation of the preceding provisions of this subsection, including the number of cases in which the representative payee was changed, the number of cases discovered where there has been a misuse of funds,

how any such cases were dealt with by the Secretary, the final disposition of such cases, including any criminal penalties imposed, and such other information as the Secretary determines to be appropriate.".

(B) TITLE XVI.—Section 1631(a)(2)(E) (42 U.S.C. 1383(a)(2)(E)), as so redesignated by subsection (c)(2) of this section, is amended to read as follows:

"(E) The Secretary shall include as a part of the annual report required under section 704 information with respect to the implementation of the preceding provisions of this paragraph, including—

"(i) the number of cases in which the representative payee was charged;

"(ii) the number of cases discovered where there has been a misuse of funds;

"(iii) how any such cases were dealt with by the Secretary;

"(iv) the final disposition of such cases (including any criminal penalties imposed); and

"(v) such other information as the Secretary determines to be appropriate.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to annual reports issued for years after 1991.

(3) FEASIBILITY STUDY REGARDING INVOLVEMENT OF DEPARTMENT OF VETERANS AFFAIRS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services, in cooperation with the Secretary of Veterans Affairs, shall conduct a study of the feasibility of designating the Department of Veterans Affairs as the lead agency for purposes of selecting, appointing, and monitoring representative payees for those individuals who receive benefits paid under title II or XVI of the Social Security Act and benefits paid by the Department of Veterans Affairs. Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report setting forth the results of such study, together with any recommendations.

SEC. 5106. FEES FOR REPRESENTATION OF CLAIMANTS IN ADMINISTRATIVE PROCEEDINGS.

(a) IN GENERAL.—

(1) TITLE II.—Subsection (a) of section 206 (42 U.S.C. 406(a)) is amended—

(A) by inserting "(1)" after "(a)";

(B) in the fifth sentence, by striking "Whenever" and inserting "Except as provided in paragraph (2)(A), whenever"; and

(C) by striking the sixth sentence and all that follows through "Any person who" in the seventh sentence and inserting the following:

"(2)(A) In the case of a claim of entitlement to past-due benefits under this title, if—

"(i) an agreement between the claimant and another person regarding any fee to be recovered by such person to compensate such person for services with respect to the claim is presented in writing to the Secretary prior to the time of the Secretary's determination regarding the claim,

"(ii) the fee specified in the agreement does not exceed the lesser of—

"(I) 25 percent of the total amount of such past-due benefits (as determined before any applicable reduction under section 1127(a)), or

"(II) $4,000, and

"(iii) the determination is favorable to the claimant,

then the Secretary shall approve that agreement at the time of the favorable determination, and (subject to paragraph (3)) the fee specified in the agreement shall be the maximum fee. The Secretary may from time to time increase the dollar amount under clause (ii)(II) to the extent that the rate of increase in such amount, as determined over the period since January 1, 1991, does not at any time exceed the rate of increase in primary insurance amounts under section 215(i) since such date. The Secretary shall publish any such increased amount in the Federal Register.

"(B) For purposes of this subsection, the term 'past-due benefits' excludes any benefits with respect to which payment has been continued pursuant to subsection (g) or (h) of section 223.

"(C) In the case of a claim with respect to which the Secretary has approved an agreement pursuant to subparagraph (A), the Secretary shall provide the claimant and the person representing the claimant a written notice of—

"(i) the dollar amount of the past-due benefits (as determined before any applicable reduction under section 1127(a)) and the dollar amount of the past-due benefits payable to the claimant,

"(ii) the dollar amount of the maximum fee which may be charged or recovered as determined under this paragraph, and

"(iii) a description of the procedures for review under paragraph (3).

"(3)(A) The Secretary shall provide by regulation for review of the amount which would otherwise be the maximum fee as determined under paragraph (2) if, within 15 days after receipt of the notice provided pursuant to paragraph (2)(C)—

"(i) the claimant, or the administrative law judge or other adjudicator who made the favorable determination, submits a written request to the Secretary to reduce the maximum fee, or

"(ii) the person representing the claimant submits a written request to the Secretary to increase the maximum fee.

Any such review shall be conducted after providing the claimant, the person representing the claimant, and the adjudicator with reasonable notice of such request and an opportunity to submit written information in favor of or in opposition to such request. The adjudicator may request the Secretary to reduce the maximum fee only on the basis of evidence of the failure of the person representing the claimant to represent adequately the claimant's interest or on the basis of evidence that the fee is clearly excessive for services rendered.

"(B)(i) In the case of a request for review under subparagraph (A) by the claimant or by the person representing the claimant, such review shall be conducted by the administrative law judge who made the favorable determination or, if the Secretary determines that such administrative law judge is unavailable or if the determination was not made by an administrative law judge, such review shall be conducted by another person designated by the Secretary for such purpose.

"(ii) In the case of a request by the adjudicator for review under subparagraph (A), the review shall be conducted by the Secretary or by an administrative law judge or other person (other than such adjudicator) who is designated by the Secretary.

"(C) Upon completion of the review, the administrative law judge or other person conducting the review shall affirm or modify the amount which would otherwise be the maximum fee. Any such amount so affirmed or modified shall be considered the amount of the maximum fee which may be recovered under paragraph (2). The decision of the administrative law judge or other person conducting the review shall not be subject to further review.

"(4)(A) Subject to subparagraph (B), if the claimant is determined to be entitled to past-due benefits under this title and the person representing the claimant is an attorney, the Secretary shall, notwithstanding section 205(i), certify for payment out of such past-due benefits (as determined before any applicable reduction under section 1127(a)) to such attorney an amount equal to so much of the maximum fee as does not exceed 25 percent of such past-due benefits (as determined before any applicable reduction under section 1127(a)).

"(B) The Secretary shall not in any case certify any amount for payment to the attorney pursuant to this paragraph before the expiration of the 15-day period referred to in paragraph (3)(A) or, in the case of any review conducted under paragraph (3), before the completion of such review.

"(5) Any person who".

(2) TITLE XVI.—Paragraph (2)(A) of section 1631(d) (42 U.S.C. 1383(d)(2)(A)) is amended to read as follows:

"(2)(A) The provisions of section 206(a) (other than paragraph (4) thereof) shall apply to this part to the same extent as they apply in the case of title II, except that paragraph (2) thereof shall be applied—

"(i) by substituting 'section 1127(a) or 1631(g)' for 'section 1127(a)'; and

"(ii) by substituting 'section 1631(a)(7)(A) or the requirements of due process of law' for 'subsection (g) or (h) of section 223'.".

(b) PROTECTION OF ATTORNEY'S FEES FROM OFFSETTING SSI BENEFITS.—Subsection (a) of section 1127 (42 U.S.C. 1320a-6(a)) is amended by adding at the end the following new sentence: "A benefit under title II shall not be reduced pursuant to the preceding sentence to the extent that any amount of such benefit would not otherwise be available for payment in full of the maximum fee which may be recovered from such benefit by an attorney pursuant to section 206(a)(4).".

(c) LIMITATATION OF TRAVEL EXPENSES FOR REPRESENTATION OF CLAIMANTS AT ADMINISTRATIVE PROCEEDINGS.—Section 201(j) (42

U.S.C. 401(j)), section 1631(h) (42 U.S.C. 1383(h)), and section 1817(i) (42 U.S.C. 1395i(i)) are each amended by adding at the end the following new sentence: "The amount available for payment under this subsection for travel by a representative to attend an administrative proceeding before an administrative law judge or other adjudicator shall not exceed the maximum amount allowable under this subsection for such travel originating within the geographic area of the office having jurisdiction over such proceeding.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to determinations made on or after July 1, 1991, and to reimbursement for travel expenses incurred on or after April 1, 1991.

SEC. 5107. APPLICABILITY OF ADMINISTRATIVE RES JUDICATA; RELATED NOTICE REQUIREMENTS.

(a) IN GENERAL.—

(1) TITLE II.—Section 205(b) (42 U.S.C. 405(b)) is amended by adding at the end the following new paragraph:

"(3)(A) A failure to timely request review of an initial adverse determination with respect to an application for any benefit under this title or an adverse determination on reconsideration of such an initial determination shall not serve as a basis for denial of a subsequent application for any benefit under this title if the applicant demonstrates that the applicant, or any other individual referred to in paragraph (1), failed to so request such a review acting in good faith reliance upon incorrect, incomplete, or misleading information, relating to the consequences of reapplying for benefits in lieu of seeking review of an adverse determination, provided by any officer or employee of the Social Security Administration or any State agency acting under section 221.

"(B) In any notice of an adverse determination with respect to which a review may be requested under paragraph (1), the Secretary shall describe in clear and specific language the effect on possible entitlement to benefits under this title of choosing to reapply in lieu of requesting review of the determination.".

(2) TITLE XVI.—Section 1631(c)(1) (42 U.S.C. 1383(c)(1)) is amended—

(A) by inserting "(A)" after "(c)(1)"; and

(B) by adding at the end the following:

"(B)(i) A failure to timely request review of an initial adverse determination with respect to an application for any payment under this title or an adverse determination on reconsideration of such an initial determination shall not serve as a basis for denial of a subsequent application for any payment under this title if the applicant demonstrates that the applicant, or any other individual referred to in paragraph (1), failed to so request such a review acting in good faith reliance upon incorrect, incomplete, or misleading information, relating to the consequences of reapplying for payments in lieu of seeking review of an adverse determination, provided by any officer or employee of the Social Security Administration or any State agency acting under section 221.

"(ii) In any notice of an adverse determination with respect to which a review may be requested under paragraph (1), the Secretary

shall describe in clear and specific language the effect on possible eligibility to receive payments under this title of choosing to reapply in lieu of requesting review of the determination.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to adverse determinations made on or after July 1, 1991.

SEC. 5108. DEMONSTRATION PROJECTS RELATING TO ACCOUNTABILITY FOR TELEPHONE SERVICE CENTER COMMUNICATIONS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall develop and carry out demonstration projects designed to implement the accountability procedures described in subsection (b) in each of not fewer than 3 telephone service centers operated by the Social Security Administration. Telephone service centers shall be selected for implementation of the accountability procedures so as to permit a thorough evaluation of such procedures as they would operate in conjunction with the service technology most recently employed by the Social Security Administration. Each such demonstration project shall commence not later than 180 days after the date of the enactment of this Act and shall remain in operation for not less than 1 year and not more than 3 years.

(b) ACCOUNTABILITY PROCEDURES.—

(1) IN GENERAL.—During the period of each demonstration project developed and carried out by the Secretary of Health and Human Services with respect to a telephone service center pursuant to subsection (a), the Secretary shall provide for the application at such telephone service center of accountability procedures consisting of the following:

(A) In any case in which a person communicates with the Social Security Administration by telephone at such telephone service center and provides in such communication his or her name, address, and such other identifying information as the Secretary determines necessary and appropriate for purposes of this subparagraph, the Secretary must thereafter promptly provide such person a written receipt which sets forth—

(i) the name of any individual representing the Social Security Administration with whom such person has spoken in such communication,

(ii) the date of the communication;

(iii) a description of the nature of the communication,

(iv) any action that an individual representing the Social Security Administration has indicated in the communication will be taken in response to the communication, and

(v) a description of the information or advice offered in the communication by an individual representing the Social Security Administration.

(B) Such person must be notified during the communication by an individual representing the Social Security Administration that, if adequate identifying information is provided to the Administration, a receipt described in subparagraph (A) will be provided to such person.

(C) A copy of any receipt required to be provided to any person under subparagraph (A) must be—

(i) included in the file maintained by the Social Security Administration relating to such person, or

(ii) if there is no such file, otherwise retained by the Social Security Administration in retrievable form until the end of the 5-year period following the termination of the project.

(2) EXCLUSION OF CERTAIN ROUTINE TELEPHONE COMMUNICATIONS.—The Secretary may exclude from demonstration projects carried out pursuant to this section routine telephone communications which do not relate to potential or current eligibility or entitlement to benefits.

(c) REPORT.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report on the progress of the demonstration projects conducted pursuant to this section, together with any related data and materials which the Secretary may consider appropriate. The report shall be submitted not later than 90 days after the termination of the project.

(2) SPECIFIC MATTERS TO BE INCLUDED.—The report required under paragraph (1) shall—

(A) assess the costs and benefits of the accountability procedures,

(B) identify any major difficulties encountered in implementing the demonstration project, and

(C) assess the feasibility of implementing the accountability procedures on a national basis.

SEC. 5109. NOTICE REQUIREMENTS.

(a) REQUIREMENTS.—

(1) TITLE II.—Section 205 (42 U.S.C. 405) is amended by inserting after subsection (r) the following new subsection:

"NOTICE REQUIREMENTS

"(s) The Secretary shall take such actions as are necessary to ensure that any notice to one or more individuals issued pursuant to this title by the Secretary or by a State agency—

"(1) is written in simple and clear language, and

"(2) includes the address and telephone number of the local office of the Social Security Administration which serves the recipient.

In the case of any such notice which is not generated by a local servicing office, the requirements of paragraph (2) shall be treated as satisfied if such notice includes the address of the local office of the Social Security Administration which services the recipient of the notice and a telephone number through which such office can be reached.".

(2) TITLE XVI.—Section 1631 (42 U.S.C. 1383) is amended by adding at the end the following:

"NOTICE REQUIREMENTS

"(n) The Secretary shall take such actions as are necessary to ensure that any notice to one or more individuals issued pursuant to this title by the Secretary or by a State agency—

"(1) is written in simple and clear language, and

"(2) includes the address and telephone number of the local office of the Social Security Administration which serves the recipient.

In the case of any such notice which is not generated by a local servicing office, the requirements of paragraph (2) shall be treated as satisfied if such notice includes the address of the local office of the Social Security Administration which services the recipient of the notice and a telephone number through which such office can be reached.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to notices issued on or after July 1, 1991.

SEC. 5110. TELEPHONE ACCESS TO THE SOCIAL SECURITY ADMINISTRATION.

(a) REQUIRED MINIMUM LEVEL OF ACCESS TO LOCAL OFFICES.—In addition to such other access by telephone to offices of the Social Security Administration as the Secretary of Health and Human Services may consider appropriate, the Secretary shall maintain access by telephone to local offices of the Social Security Administration at the level of access generally available as of September 30, 1989.

(b) TELEPHONE LISTINGS.—The Secretary shall make such requests of local telephone utilities in the United States as are necessary to ensure that the listings subsequently maintained and published by such utilities for each locality include the address and telephone number for each local office of the Social Security Administration to which direct telephone access is maintained under subsection (a) in such locality. Such listing may also include information concerning the availability of a toll-free number which may be called for general information.

(c) REPORT BY SECRETARY.—Not later than January 1, 1993, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report which—

(1) assesses the impact of the requirements established by this section on the Social Security Administration's allocation of resources, workload levels, and service to the public, and

(2) presents a plan for using new, innovative technologies to enhance access to the Social Security Administration, including access to local offices.

(d) GAO REPORT.—The Comptroller General of the United States shall review the level of telephone access by the public to the local offices of the Social Security Administration. The Comptroller General shall file an interim report with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate describing such level of telephone access not later than 120 days after the date of the enactment of this Act and shall file a final report with such Committees describing such level of access not later than 210 days after such date.

35-428 O - 90 - 10

(e) EFFECTIVE DATE.—The Secretary of Health and Human Services shall meet the requirements of subsections (a) and (b) as soon as possible after the date of the enactment of this Act but not later 180 days after such date.

SEC. 5111. AMENDMENTS RELATING TO SOCIAL SECURITY ACCOUNT STATEMENTS.

(a) IN GENERAL.—Section 1142 (42 U.S.C. 1320b-13), as added by section 10308 of the Omnibus Budget Reconciliation Act of 1989 (103 Stat. 2485), is amended—

(1) by striking "SEC. 1142." and inserting "SEC. 1143."; and

(2) in subsection (c)(2), by striking " a biennial" and inserting "an annual".

(b) DISCLOSURE OF ADDRESS INFORMATION BY INTERNAL REVENUE SERVICE TO SOCIAL SECURITY ADMINISTRATION.—

(1) IN GENERAL.—Section 6103(m) of the Internal Revenue Code of 1986 (relating to disclosure of taxpayer identity information) is amended by adding at the end the following new paragraph:

"(7) SOCIAL SECURITY ACCOUNT STATEMENT FURNISHED BY SOCIAL SECURITY ADMINISTRATION.—Upon written request by the Commissioner of Social Security, the Secretary may disclose the mailing address of any taxpayer who is entitled to receive a social security account statement pursuant to section 1143(c) of the Social Security Act, for use only by officers, employees or agents of the Social Security Administration for purposes of mailing such statement to such taxpayer.".

(2) SAFEGUARDS.—Section 6103(p)(4) of such Code (relating to safeguards) is amended, in the matter following subparagraph (f)(iii), by striking "subsection (m)(2), (4), or (6)" and inserting "paragraph (2), (4), (6), or (7) of subsection (m)".

(3) UNAUTHORIZED DISCLOSURE PENALTIES.—Paragraph (2) of section 7213(a) of such Code (relating to unauthorized disclosure of returns and return information) is amended by striking "(m)(2), (4), or (6)" and inserting "(m)(2), (4), (6), or (7)".

SEC. 5112. TRIAL WORK PERIOD DURING ROLLING FIVE-YEAR PERIOD FOR ALL DISABLED BENEFICIARIES.

(a) IN GENERAL.—Section 222(c) (42 U.S.C. 422(c)) is amended—

(1) in paragraph (4)(A), by striking ", beginning on or after the first day of such period," and inserting ", in any period of 60 consecutive months,"; and

(2) by striking paragraph (5).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 1992.

SEC. 5113. CONTINUATION OF BENEFITS ON ACCOUNT OF PARTICIPATION IN A NON-STATE VOCATIONAL REHABILITATION PROGRAM.

(a) IN GENERAL.—Section 225(b) (42 U.S.C. 425(b)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) such individual is participating in a program of vocational rehabilitation services approved by the Secretary, and"; and

(2) in paragraph (2), by striking "Commissioner of Social Security" and inserting "Secretary".

(b) PAYMENTS AND PROCEDURES.—Section 1631(a)(6) (42 U.S.C. 1383(a)(6)) is amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) such individual is participating in a program of vocational rehabilitation services approved by the Secretary, and"; and

(2) in subparagraph (B), by striking "Commissioner of Social Security" and inserting "Secretary".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to benefits payable for months after the eleventh month following the month in which this Act is enacted and shall apply only with respect to individuals whose blindness or disability has or may have ceased after such eleventh month.

SEC. 5114. LIMITATION ON NEW ENTITLEMENT TO SPECIAL AGE-72 PAYMENTS.

(a) IN GENERAL.—Section 228(a)(2) (42 U.S.C. 428(a)(2)) is amended by striking "(B)" and inserting "(B)(i) attained such age after 1967 and before 1972, and (ii)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to benefits payable on the basis of applications filed after the date of the enactment of this Act.

SEC. 5115. ELIMINATION OF ADVANCED CREDITING TO THE TRUST FUNDS OF SOCIAL SECURITY PAYROLL TAXES.

(a) IN GENERAL.—Section 201(a) (42 U.S.C. 401(a)) is amended—

(1) in the first sentence following clause (4)—

(A) by striking "monthly on the first day of each calendar month" both places it appears and inserting "from time to time";

(B) by striking "to be paid to or deposited into the Treasury during such month" and inserting "paid to or deposited into the Treasury"; and

(2) in the last sentence, by striking "Fund;" and inserting "Fund. Notwithstanding the preceding sentence, in any case in which the Secretary of the Treasury determines that the assets of either such Trust Fund would otherwise be inadequate to meet such Fund's obligations for any month, the Secretary of the Treasury shall transfer to such Trust Fund on the first day of such month the amount which would have been transferred to such Fund under this section as in effect on October 1, 1990; and".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on the first day of the month following the month in which this Act is enacted.

SEC. 5116. ELIMINATION OF ELIGIBILITY FOR RETROACTIVE BENEFITS FOR CERTAIN INDIVIDUALS ELIGIBLE FOR REDUCED BENEFITS.

(a) IN GENERAL.—Section 202(j)(4) (42 U.S.C. 402(j)(4)) is amended—

(1) in subparagraph (A), by striking "if the effect" and all that follows and inserting "if the amount of the monthly benefit to which such individual would otherwise be entitled for any such month would be subject to reduction pursuant to subsection (q)."; and

(2) in subparagraph (B), by striking clauses (i) and (iv) and by redesignating clauses (ii), (iii), and (v) as clauses (i), (ii), and (iii), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to applications for benefits filed on or after January 1, 1991.

SEC. 5117. CONSOLIDATION OF OLD METHODS OF COMPUTING PRIMARY INSURANCE AMOUNTS.

(a) CONSOLIDATION OF COMPUTATION METHODS.—

(1) IN GENERAL.—Section 215(a)(5) (42 U.S.C. 415(a)(5)) is amended—

(A) by striking "For purposes of" and inserting "(A) Subject to subparagraphs (B), (C), (D) and (E), for purposes of";

(B) by striking the last sentence; and

(C) by adding at the end the following new subparagraphs:

"(B)(i) Subject to clauses (ii), (iii), and (iv), and notwithstanding any other provision of law, the primary insurance amount of any individual described in subparagraph (C) shall be, in lieu of the primary insurance amount as computed pursuant to any of the provisions referred to in subparagraph (D), the primary insurance amount computed under subsection (a) of section 215 as in effect in December 1978, without regard to subsection (b)(4) and (c) of such section as so in effect.

"(ii) The computation of a primary insurance amount under this subparagraph shall be subject to section 104(j)(2) of the Social Security Amendments of 1972 (relating to the number of elapsed years under section 215(b)).

"(iii) In computing a primary insurance amount under this subparagraph, the dollar amount specified in paragraph (3) of section 215(a) (as in effect in December 1978) shall be increased to $11.50.

"(iv) In the case of an individual to whom section 215(d) applies, the primary insurance amount of such individual shall be the greater of—

"(I) the primary insurance amount computed under the preceding clauses of this subparagraph, or

"(II) the primary insurance amount computed under section 215(d).

"(C) An individual is described in this subparagraph if—

"(i) paragraph (1) does not apply to such individual by reason of such individual's eligibility for an old-age or disability insurance benefit, or the individual's death, prior to 1979, and

"(ii) such individual's primary insurance amount computed under this section as in effect immediately before the date of the enactment of the Omnibus Budget Reconciliation Act of 1990 would have been computed under the provisions described in subparagraph (D).

"(D) The provisions described in this subparagraph are—

"(i) the provisions of this subsection as in effect prior to the enactment of the Social Security Amendments of 1965, if such provisions would preclude the use of wages prior to 1951 in the computation of the primary insurance amount,

"(ii) the provisions of section 209 as in effect prior to the enactment of the Social Security Act Amendments of 1950, and

"(iii) the provisions of section 215(d) as in effect prior to the enactment of the Social Security Amendments of 1977.

"(E) For purposes of this paragraph, the table for determining primary insurance amounts and maximum family benefits contained in this section in December 1978 shall be revised as provided by subsection (i) for each year after 1978.".

(2) COMPUTATION OF PRIMARY INSURANCE BENEFIT UNDER 1939 ACT.—

(A) DIVISION OF WAGES BY ELAPSED YEARS.—Section 215(d)(1) (42 U.S.C. 415(d)(1)) is amended—

(i) in subparagraph (A), by inserting "and subject to section 104(j)(2) of the Social Security Amendments of 1972" after "thereof"; and

(ii) by striking "(B) For purposes" in subparagraph (B) and all that follows through clause (ii) of such subparagraph and inserting the following:

"(B) For purposes of subparagraphs (B) and (C) of subsection (b)(2) (as so in effect)—

"(i) the total wages prior to 1951 (as defined in subparagraph (C) of this paragraph) of an individual—

"(I) shall, in the case of an individual who attained age 21 prior to 1950, be divided by the number of years (hereinafter in this subparagraph referred to as the 'divisor') elapsing after the year in which the individual attained age 20, or 1936 if later, and prior to the earlier of the year of death or 1951, except that such divisor shall not include any calendar year entirely included in a period of disability, and in no case shall the divisor be less than one, and

"(II) shall, in the case of an individual who died before 1950 and before attaining age 21, be divided by the number of years (hereinafter in this subparagraph referred to as the 'divisor') elapsing after the second year prior to the year of death, or 1936 if later, and prior to the year of death, and in no case shall the divisor be less than one; and

"(ii) the total wages prior to 1951 (as defined in subparagraph (C) of this paragraph) of an individual who either attained age 21 after 1949 or died after 1949 before attaining age 21, shall be divided by the number of years (hereinafter in this subparagraph referred to as the 'divisor') elapsing after 1949 and prior to 1951.".

(B) CREDITING OF WAGES TO YEARS.—Clause (iii) of section 215(d)(1)(B) (42 U.S.C. 415(d)(1)(B)(iii)) is amended to read as follows:

"(iii) if the quotient exceeds $3,000, only $3,000 shall be deemed to be the individual's wages for each of the years which were used in computing the amount of the divisor, and the remainder of the individual's total wages prior to 1951 (I) if less than $3,000, shall be deemed credited to the computation base year (as defined in subsection (b)(2) as in effect in December 1977) immediately preceding the earliest

year used in computing the amount of the divisor, or (II) if $3,000 or more, shall be deemed credited, in $3,000 increments, to the computation base year (as so defined) immediately preceding the earliest year used in computing the amount of the divisor and to each of the computation base years (as so defined) consecutively preceding that year, with any remainder less than $3,000 being credited to the computation base year (as so defined) immediately preceding the earliest year to which a full $3,000 increment was credited; and".

(C) APPLICABILITY.—Section 215(d) is further amended—

(i) in paragraph (2)(B), by striking "except as provided in paragraph (3),";

(ii) by striking paragraph (2)(C) and inserting the following:

"(C)(i) who becomes entitled to benefits under section 202(a) or 223 or who dies, or

"(ii) whose primary insurance amount is required to be recomputed under paragraph (2), (6), or (7) of subsection (f) or under section 231."; and

(iii) by striking paragraphs (3) and (4).

(3) CONFORMING AMENDMENTS.—

(A) Section 215(i)(4) (42 U.S.C. 415(i)(4)) is amended in the first sentence by inserting "and as amended by section 5117 of the Omnibus Budget Reconciliation Act of 1990" after "as then in effect".

(B) Section 203(a)(8) (42 U.S.C. 403(a)(8)) is amended in the first sentence by inserting "and as amended by section 5117 of the Omnibus Budget Reconciliation Act of 1990," after "December 1978" the second place it appears.

(C) Section 215(c) (42 U.S.C. 415(c)) is amended by striking "This" and inserting "Subject to the amendments made by section 5117 of the Omnibus Budget Reconciliation Act of 1990, this".

(D) Section 215(f)(7) (42 U.S.C. 415(f)(7)) is amended by striking the period at the end of the first sentence and inserting ", including a primary insurance amount computed under any such subsection whose operation is modified as a result of the amendments made by section 5117 of the Omnibus Budget Reconciliation Act of 1990".

(E)(i) Section 215(d) (42 U.S.C. 415(d)) is further amended by redesignating paragraph (5) as paragraph (3).

(ii) Subsections (a)(7)(A), (a)(7)(C)(ii), and (f)(9)(A) of section 215 (42 U.S.C. 415) are each amended by striking "subsection (d)(5)" each place it appears and inserting "subsection (d)(3)".

"(iii) Section 215(f)(9)(B) (42 U.S.C. 415(f)(9)(B)) is amended by striking "subsection (a)(7) or (d)(5)" each place it appears and inserting "subsection (a)(7) or (d)(3)".

(4) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply with respect to the computation of the primary insurance amount of any insured individual in any case in which a

person becomes entitled to benefits under section 202 or 223 on the basis of such insured individual's wages and self-employment income for months after the 18-month period following the month in which this Act is enacted, except that such amendments shall not apply if any person is entitled to benefits based on the wages and self-employment income of such insured individual for the month preceding the initial month of such person's entitlement to such benefits under section 202 or 223.

(B) RECOMPUTATIONS.—The amendments made by this subsection shall apply with respect to any primary insurance amount upon the recomputation of such primary insurance amount if such recomputation is first effective for monthly benefits for months after the 18-month period following the month in which this Act is enacted.

(b) BENEFITS IN CASE OF VETERANS.—Section 217(b) (42 U.S.C. 417(b)) is amended—

(1) in the first sentence of paragraph (1), by striking "Any" and inserting "Subject to paragraph (3), any"; and

(2) by adding at the end the following new paragraph:

"(3)(A) The preceding provisions of this subsection shall apply for purposes of determining the entitlement to benefits under section 202, based on the primary insurance amount of the deceased World War II veteran, of any surviving individual only if such surviving individual makes application for such benefits before the end of the 18-month period after the month in which the Omnibus Budget Reconciliation Act of 1990 was enacted.

"(B) Subparagraph (A) shall not apply if any person is entitled to benefits under section 202 based on the primary insurance amount of such veteran for the month preceding the month in which such application is made.".

(c) APPLICABILITY OF ALTERNATIVE METHOD FOR DETERMINING QUARTERS OF COVERAGE WITH RESPECT TO WAGES IN THE PERIOD FROM 1937 TO 1950.—

(1) APPLICABILITY WITHOUT REGARD TO NUMBER OF ELAPSED YEARS.—Section 213(c) (42 U.S.C. 413(c)) is amended—

(A) by inserting "and 215(d)" after "214(a)"; and

(B) by striking "except where—" and all that follows and inserting the following: "except where such individual is not a fully insured individual on the basis of the number of quarters of coverage so derived plus the number of quarters of coverage derived from the wages and self-employment income credited to such individual for periods after 1950.".

(2) APPLICABILITY WITHOUT REGARD TO DATE OF DEATH.—Section 155(b)(2) of the Social Security Amendments of 1967 is amended by striking "after such date".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply only with respect to individuals who—

(A) make application for benefits under section 202 of the Social Security Act after the 18-month period following the month in which this Act is enacted, and

(B) are not entitled to benefits under section 227 or 228 of such Act for the month in which such application is made.

SEC. 5118. SUSPENSION OF DEPENDENT'S BENEFITS WHEN THE WORKER IS IN AN EXTENDED PERIOD OF ELIGIBILITY.

(a) IN GENERAL.—Section 223(e) (42 U.S.C. 623(e)) is amended by—

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end the following new paragraph:

"(2) No benefit shall be payable under section 202 on the basis of the wages and self-employment income of an individual entitled to a benefit under subsection (a)(1) of this section for any month for which the benefit of such individual under subsection (a)(1) is not payable under paragraph (1).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to benefits for months after the date of the enactment of this Act.

SEC. 5119. ENTITLEMENT TO BENEFITS OF DEEMED SPOUSE AND LEGAL SPOUSE.

(a) CONTINUED ENTITLEMENT OF DEEMED SPOUSE DESPITE ENTITLEMENT OF LEGAL SPOUSE.—Section 216(h)(1) (42 U.S.C. 416(h)(1)) is amended—

(1) in subparagraph (A)—

(A) by inserting "(i)" after "(h)(1)(A)"; and

(B) by striking "If such courts" in the second sentence and inserting the following:

"(ii) If such courts"; and

(2) in subparagraph (B)—

(A) by inserting "(i)" after "(B)";

(B) by striking "The provisions of the preceding sentence" in the second sentence and inserting the following:

"(ii) The provisions of clause (i)";

(C) by striking "(i) if another" in the second sentence and all that follows through "or (ii)";

(D) by striking "The entitlement" in the third sentence and inserting the following:

"(iii) The entitlement";

(E) by striking "subsection (b), (c), (e), (f), or (g)" the first place it appears in the third sentence and inserting "subsection (b) or (c)",

(F) by striking "wife, widow, husband, or widower" the first place it appears in the third sentence and inserting "wife or husband";

(G) by striking "(i) in which" in the third sentence and all that follows through "in which such applicant entered" and inserting "in which such person enters";

(H) by striking "For purposes" in the fourth sentence and inserting the following:

"(iv) For purposes";

and

(I) by striking "(i)" and "(ii)" in the fourth sentence and inserting "(I)" and "(II)", respectively.

(b) TREATMENT OF DIVORCE IN THE CONTEXT OF INVALID MARRIAGE.—Section 216(h)(1)(B)(i) (as amended by subsection (a)) is further amended—

(1) by striking "where under subsection (b), (c), (f), or (g) such applicant is not the wife, widow, husband, or widower of such individual" and inserting "where under subsection (b), (c), (d),

(f), or (g) such applicant is not the wife, divorced wife, widow, surviving divorced wife, husband, divorced husband, widower, or surviving divorced husband of such individual";

(2) by striking "and such applicant" and all that follows through "files the application,";

(3) by striking "subsections (b), (c), (f), and (g)" and inserting "subsections (b), (c), (d), (f), and (g)"; and

(4) by adding at the end the following new sentences: "Notwithstanding the preceding sentence, in the case of any person who would be deemed under the preceding sentence a wife, widow, husband, or widower of the insured individual, such marriage shall not be deemed to be a valid marriage unless the applicant and the insured individual were living in the same household at the time of the death of the insured individual or (if the insured individual is living) at the time the applicant files the application. A marriage that is deemed to be a valid marriage by reason of the preceding sentence shall continue to be deemed a valid marriage if the insured individual and the person entitled to benefits as the wife or husband of the insured individual are no longer living in the same household at the time of the death of such insured individual.".

(c) TREATMENT OF MULTIPLE ENTITLEMENTS UNDER THE FAMILY MAXIMUM.—Section 203(a)(3) (42 U.S.C. 403(a)(3)) is amended by adding after subparagraph (C) the following new subparagraph:

"(D) In any case in which—

"(i) two or more individuals are entitled to monthly benefits for the same month as a spouse under subsection (b) or (c) of section 202, or as a surviving spouse under subsection (e), (f), or (g) of section 202,

"(ii) at least one of such individuals is entitled by reason of subparagraph (A)(ii) or (B) of section 216(h)(1), and

"(iii) such entitlements are based on the wages and self-employment income of the same insured individual,

the benefit of the entitled individual whose entitlement is based on a valid marriage (as determined without regard to subparagraphs (A)(ii) and (B) of section 216(h)(1)) to such insured individual shall, for such month and all months thereafter, be determined without regard to this subsection, and the benefits of all other individuals who are entitled, for such month or any month thereafter, to monthly benefits under section 202 based on the wages and self-employment income of such insured individual shall be determined as if such entitled individual were not entitled to benefits for such month.".

(d) CONFORMING AMENDMENT.—Section 203(a)(6) (42 U.S.C. 403(a)(6)) is amended by inserting "(3)(D)," after "(3)(C),".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to benefits for months after December 1990.

(2) APPLICATION REQUIREMENT.—

(A) GENERAL RULE.—Except as provided in subparagraph (B), the amendments made by this section shall apply only with respect to benefits for which application is filed with the Secretary of Health and Human Services after December 31, 1990.

(B) EXCEPTION FROM APPLICATION REQUIREMENT.—Subparagraph (A) shall not apply with respect to the benefits of any individual if such individual is entitled to a benefit under subsection (b), (c), (e), or (f) of section 202 of the Social Security Act for December 1990 and the individual on whose wages and self-employment income such benefit for December 1990 is based is the same individual on the basis of whose wages and self-employment income application would otherwise be required under subparagraph (A).

SEC. 5120. VOCATIONAL REHABILITATION DEMONSTRATION PROJECTS.

(a) DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Pursuant to section 505 of the Social Security Disability Amendments of 1980, the Secretary of Health and Human Services shall develop and carry out under this section demonstration projects in each of not fewer than three States. Each such demonstration project shall be designed to assess the advantages and disadvantages of permitting disabled beneficiaries (as defined in paragraph (3)) to select, from among both public and private qualified vocational rehabilitation providers, providers of vocational rehabilitation services directed at enabling such beneficiaries to engage in substantial gainful activity. Each such demonstration project shall commence as soon as practicable after the date of the enactment of this Act and shall remain in operation until the end of fiscal year 1993.

(2) SCOPE AND PARTICIPATION.—Each demonstration project shall be of sufficient scope and open to sufficient participation by disabled beneficiaries so as to permit meaningful determinations under subsection (b).

(3) DISABLED BENEFICIARY.—For purposes of this section, the term "disabled beneficiary" means an individual who is entitled to disability insurance benefits under section 223 of the Social Security Act or benefits under section 202 of such Act based on such individual's own disability.

(b) MATTERS TO BE DETERMINED.—In the course of each demonstration project conducted under this section, the Secretary shall determine the following:

(1) the extent to which disabled beneficiaries participate in the process of selecting providers of rehabilitation services, and their reasons for participating or not participating;

(2) notable characteristics of participating disabled beneficiaries (including their impairments), classified by the type of provider selected;

(3) the various needs for rehabilitation demonstrated by participating disabled beneficiaries, classified by the type of provider selected;

(4) the extent to which providers of rehabilitation services which are not agencies or instrumentalities of States accept referrals of disabled beneficiaries under procedures in effect under section 222(d) of the Social Security Act as of the date of the enactment of this Act relating to reimbursement for such services and the most effective way of reimbursing such providers in accordance with such provisions;

(5) the extent to which providers participating in the demonstration projects enter into contracts with third parties for services and the types of such services;

(6) whether, and if so the extent to which, disabled beneficiaries who select their own providers of rehabilitation services are more likely to engage in substantial gainful activity and thereby terminate their entitlement under section 202 or 223 of the Social Security Act than those who do not;

(7) the cost effectiveness of permitting disabled beneficiaries to select their providers of vocational rehabilitation services, and the comparative cost effectiveness of different types of providers; and

(8) the feasibility of establishing a permanent national program for allowing disabled beneficiaries to choose their own qualified vocational rehabilitation provider and any additional safeguards which would be necessary to assure the effectiveness of such a program.

(c) PROCEDURAL REQUIREMENTS.—

(1) SELECTION OF PARTICIPANTS.—The Secretary shall select for participation in each demonstration project under this section disabled beneficiaries for whom there is a reasonable likelihood that rehabilitation services provided to them will result in performance by them of substantial gainful activity for a continuous period of nine months prior to termination of the project.

(2) SELECTION OF PROVIDERS OF REHABILITATION SERVICES.—The Secretary shall select qualified rehabilitation agencies to serve as providers of rehabilitation services in the geographic area covered by each demonstration project conducted under this section. The Secretary shall make such selection after consultation with disabled individuals and organizations representing such individuals. With respect to each demonstration project, the Secretary may approve on a case-by-case basis additional qualified rehabilitation agencies from outside the geographic area covered by the project to serve particular disabled beneficiaries.

(3) REIMBURSEMENT OF PROVIDERS.—

(A) Except as provided in subparagraph (B), providers of rehabilitation services under each demonstration project under this section shall be reimbursed in accordance with the procedures in effect under the provisions of section 222(d) of the Social Security Act as of the date of the enactment of this Act relating to reimbursement for services provided under such section.

(B) The Secretary may contract with providers of rehabilitation services under each demonstration project under this section on a fee-for-service basis in order to—

(i) conduct vocational evaluations directed at identifying those disabled beneficiaries who have reasonable potential for engaging in substantial gainful activity and thereby terminating their entitlement to benefits under section 202 or 223 of the Social Security Act if provided with vocational rehabilitation services as participants in the project, and

(ii) develop jointly with each disabled beneficiary so identified an individualized, written rehabilitation program.

(C) Each written rehabilitation program developed pursuant to subparagraph (B)(ii) for any participant shall include among its provisions—

(i) a statement of the participant's rehabilitation goal,

(ii) a statement of the specific rehabilitation services to be provided and of the identity of the provider to furnish such services,

(iii) the projected date for the initiation of such services and their anticipated duration, and

(iv) objective criteria and an evaluation procedure and schedule for determining whether the stated rehabilitation goal is being achieved.

(d) REPORTS.—The Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate an interim written report on the progress of the demonstration projects conducted under this section not later than April 1, 1992, together with any related data and materials which the Secretary considers appropriate. The Secretary shall submit a final written report to such Committees addressing the matters to be determined under subsection (b) not later than April 1, 1994.

(e) STATE.—For purposes of this section, the term "State" means a State, including the entities included in such term by section 210(h) of the Social Security Act (42 U.S.C. 410(h)).

(f) CONTINUATION OF DEMONSTRATION AUTHORITY.—Section 505(c) of the Social Security Disability Amendments of 1980 (42 U.S.C. 1310 note) is amended to read as follows:

"(c) The Secretary shall submit to the Congress a final report with respect to all experiments and demonstration projects carried out under this section (other than demonstration projects conducted under section 5120 of the Omnibus Budget Reconciliation of 1990) no later than October 1, 1993.".

SEC. 5121. EXEMPTION FOR CERTAIN ALIENS, RECEIVING AMNESTY UNDER THE IMMIGRATION AND NATIONALITY ACT, FROM PROSECUTION FOR MISREPORTING OF EARNINGS OR MISUSE OF SOCIAL SECURITY ACCOUNT NUMBERS OR SOCIAL SECURITY CARDS.

(a) IN GENERAL.—Section 208 (42 U.S.C. 408) is amended by adding at the end the following:

"(d)(1) Except as provided in paragraph (2), an alien—

"(A) whose status is adjusted to that of lawful temporary resident under section 210 or 245A of the Immigration and Nationality Act or under section 902 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989,

"(B) whose status is adjusted to that of permanent resident—

"(i) under section 202 of the Immigration Reform and Control Act of 1986, or

"(ii) pursuant to section 249 of the Immigration and Nationality Act, or

"(C) who is granted special immigrant status under section 101(a)(27)(I) of the Immigration and Nationality Act,

shall not be subject to prosecution for any alleged conduct described in paragraph (6) or (7) of subsection (a) if such conduct is alleged to have occurred prior to 60 days after the date of the enactment of the Omnibus Budget Reconciliation Act of 1990.

"(2) Paragraph (1) shall not apply with respect to conduct (described in subsection (a)(7)(C)) consisting of—

"(A) selling a card that is, or purports to be, a social security card issued by the Secretary,

"(B) possessing a social security card with intent to sell it, or

"(C) counterfeiting a social security card with intent to sell it.

"(3) Paragraph (1) shall not apply with respect to any criminal conduct involving both the conduct described in subsection (a)(7) to which paragraph (1) applies and any other criminal conduct if such other conduct would be criminal conduct if the conduct described in subsection (a)(7) were not committed.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—So much of section 208 as precedes subsection (d) (as added by subsection (a) of this section) is amended—

(1) in subsection (a), by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; (2) in subsection (g), by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; (3) by redesignating subsections (a) through (h) as paragraphs (1) through (8), respectively; (4) by inserting "(a)" before "Whoever"; (5) by inserting "(b)" at the beginning of the next-to-last undesignated paragraph; and (6) by inserting "(c)" at the beginning of the last undesignated paragraph.

SEC. 5122. REDUCTION OF AMOUNT OF WAGES NEEDED TO EARN A YEAR OF COVERAGE APPLICABLE IN DETERMINING SPECIAL MINIMUM PRIMARY INSURANCE AMOUNT.

(a) IN GENERAL.—Section 215(a)(1)(C)(ii) (42 U.S.C. 415(a)(1)(C)(ii)) is amended by striking "of not less than 25 percent" the first place it appears and all that follows through "1977) if" and inserting "of not less than 25 percent (in the case of a year after 1950 and before 1978) of the maximum amount which (pursuant to subsection (e)) may be counted for such year, or 25 percent (in the case of a year after 1977 and before 1991) or 15 percent (in the case of a year after 1990) of the maximum amount which (pursuant to subsection (e)) could be counted for such year if".

(b) RETENTION OF CURRENT AMOUNT OF WAGES NEEDED TO EARN A YEAR OF COVERAGE FOR PURPOSES OF WINDFALL ELIMINATION PROVISION.—Section 215(a)(7)(D) (42 U.S.C. 415(a)(7)(D)) is amended—

(1) in the first sentence, by striking "(as defined in paragraph (1)(C)(ii))"; and

(2) by adding at the end (after the table) the following new flush sentence:

"For purposes of this subparagraph, the term 'year of coverage' shall have the meaning provided in paragraph (1)(C)(ii), except that the reference to '15 percent' therein shall be deemed to be a reference to '25 percent'.".

SEC. 5123. CHARGING OF EARNINGS OF CORPORATE DIRECTORS.

(a) IN GENERAL.—

(1) Title II is amended by moving the last undesignated paragraph of section 211(a) of such title (as added by section 9022(a) of the Omnibus Budget Reconciliation Act of 1987) to the end of section 203(f)(5) of such title.

(2) The undesignated paragraph moved to section 203(f)(5) of the Social Security Act by paragraph (1) is amended—

(A) by striking "Any income of an individual which results from or is attributable to" and inserting "(E) For purposes of this section, any individual's net earnings from self-employment which result from or are attributable to",

(B) by striking "the income is actually paid" and inserting "the income, on which the computation of such net earnings from self-employment is based, is actually paid"; and

(C) by striking "unless it was" and inserting "unless such income was".

(3) The last undesignated paragraph of section 1402(a) of the Internal Revenue Code of 1986 (as added by section 9022(b) of the Omnibus Budget Reconciliation Act of 1987) is repealed.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to income received for services performed in taxable years beginning after December 31, 1990.

SEC. 5124. COLLECTION OF EMPLOYEE SOCIAL SECURITY AND RAILROAD RETIREMENT TAXES ON TAXABLE GROUP-TERM LIFE INSURANCE PROVIDED TO RETIREES.

(a) SOCIAL SECURITY TAXES.—Section 3102 of the Internal Revenue Code of 1986 (relating to deduction of tax from wages) is amended by adding at the end thereof the following new subsection:

"(d) SPECIAL RULE FOR CERTAIN TAXABLE GROUP-TERM LIFE INSURANCE BENEFITS.—

"(1) IN GENERAL.—In the case of any payment for group-term life insurance to which this subsection applies—

"(A) subsection (a) shall not apply,

"(B) the employer shall separately include on the statement required under section 6051—

"(i) the portion of the wages which consists of payments for group-term life insurance to which this subsection applies, and

"(ii) the amount of the tax imposed by section 3101 on such payments, and

"(C) the tax imposed by section 3101 on such payments shall be paid by the employee.

"(2) BENEFITS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any payment for group-term life insurance to the extent—

"(A) such payment constitutes wages, and

"(B) such payment is for coverage for periods during which an employment relationship no longer exists between the employee and the employer."

(b) RAILROAD RETIREMENT TAXES.—Section 3202 of such Code (relating to deduction of tax from compensation) is amended by adding at the end thereof the following new subsection:

"(d) SPECIAL RULE FOR CERTAIN TAXABLE GROUP-TERM LIFE INSURANCE BENEFITS.—

"(1) In general.—In the case of any payment for group-term life insurance to which this subsection applies—

"(A) subsection (a) shall not apply,

"(B) the employer shall separately include on the statement required under section 6051—

"(i) the portion of the compensation which consists of payments for group-term life insurance to which this subsection applies, and

"(ii) the amount of the tax imposed by section 3201 on such payments, and

"(C) the tax imposed by section 3201 on such payments shall be paid by the employee.

"(2) Benefits to which subsection applies.—This subsection shall apply to any payment for group-term life insurance to the extent—

"(A) such payment constitutes compensation, and

"(B) such payment is for coverage for periods during which an employment relationship no longer exists between the employee and the employer."

(c) Effective Date.—The amendments made by this section shall apply to coverage provided after December 31, 1990.

SEC. 5125. TIER 1 RAILROAD RETIREMENT TAX RATES EXPLICITLY DETERMINED BY REFERENCE TO SOCIAL SECURITY TAXES.

(a) Tax on Employees.—Subsection (a) of section 3201 of the Internal Revenue Code of 1986 (relating to rate of tax) is amended—

(1) by striking "following" and inserting "applicable", and

(2) by striking "employee:" and all that follows and inserting "employee. For purposes of the preceding sentence, the term 'applicable percentage' means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3101 for the calendar year."

(b) Tax on Employee Representatives.—Paragraph (1) of section 3211(a) of such Code (relating to rate of tax) is amended—

(1) by striking "following" and inserting "applicable", and

(2) by striking "representative:" and all that follows and inserting "representative. For purposes of the preceding sentence, the term 'applicable percentage' means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3101 and subsections (a) and (b) of section 3111 for the calendar year."

(c) Tax on Employers.—Subsection (a) of section 3221 of such Code (relating to rate of tax) is amended—

(1) by striking "following" and inserting "applicable", and

(2) by striking "employer:" and all that follows and inserting "employer. For purposes of the preceding sentence, the term 'applicable percentage' means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3111 for the calendar year."

SEC. 5126. TRANSFER TO RAILROAD RETIREMENT ACCOUNT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended by striking "1990" and inserting "1992".

SEC. 5127. WAIVER OF 2-YEAR WAITING PERIOD FOR INDEPENDENT ENTITLEMENT TO DIVORCED SPOUSE'S BENEFITS.

(a) WAIVER FOR PURPOSES OF DEDUCTIONS ON ACCOUNT OF WORK.—Section 203(b)(2) (42 U.S.C. 403(b)(2)) is amended—

(1) by striking "(2) When" and all that follows through "2 years, the benefit" and inserting the following:

"(2)(A) Except as provided in subparagraph (B), in any case in which—

"(i) any of the other persons referred to in paragraph (1)(B) is entitled to monthly benefits as a divorced spouse under section 202(b) or (c) for any month, and

"(ii) such person has been divorced for not less than 2 years, the benefit"; and

(2) by adding at the end the following new subparagraph:

"(B) Clause (ii) of subparagraph (A) shall not apply with respect to any divorced spouse in any case in which the individual referred to in paragraph (1) became entitled to old-age insurance benefits under section 202(a) before the date of the divorce.".

(b) WAIVER IN CASE OF NONCOVERED WORK OUTSIDE THE UNITED STATES.—Section 203(d)(1)(B) (42 U.S.C. 403(d)(1)(B)) is amended—

(1) by striking "(B) When" and all that follows through "2 years, the benefit" and inserting the following:

"(B)(i) Except as provided in clause (ii), in any case in which—

"(I) a divorced spouse is entitled to monthly benefits under section 202(b) or (c) for any month, and

"(II) such divorced spouse has been divorced for not less than 2 years,

the benefit"; and

(2) by adding at the end the following new clause:

"(ii) Subclause (II) of clause (i) shall not apply with respect to any divorced spouse in any case in which the individual entitled to old-age insurance benefits referred to in subparagraph (A) became entitled to such benefits before the date of the divorce.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits for months after December 1990.

SEC. 5128. MODIFICATION OF THE PREEFFECTUATION REVIEW REQUIREMENT APPLICABLE TO DISABILITY INSURANCE CASES.

(a) IN GENERAL.—Section 221(c)(3) (42 U.S.C. 421(c)(3)) is amended to read as follows:

"(3)(A) In carrying out the provisions of paragraph (2) with respect to the review of determinations made by State agencies pursuant to this section that individuals are under disabilities (as defined in section 216(i) or 223(d)), the Secretary shall review—

"(i) at least 50 percent of all such determinations made by State agencies on applications for benefits under this title, and

"(ii) other determinations made by State agencies pursuant to this section to the extent necessary to assure a high level of accuracy in such other determinations.

"(B) In conducting reviews pursuant to subparagraph (A), the Secretary shall, to the extent feasible, select for review those determinations which the Secretary identifies as being the most likely to be incorrect.

"(C) Not later than April 1, 1992, and annually thereafter, the Secretary shall submit to the Committee on Ways and Means of the

House of Representatives and the Committee on Finance of the Senate a written report setting forth the number of reviews conducted under subparagraph (A)(ii) during the preceding fiscal year and the findings of the Secretary based on such reviews of the accuracy of the determinations made by State agencies pursuant to this section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to determinations made by State agencies in fiscal years after fiscal year 1990.

SEC. 5129. RECOVERY OF OASDI OVERPAYMENTS BY MEANS OF REDUCTION IN TAX REFUNDS.

(a) ADDITIONAL METHOD OF RECOVERY.—Section 204(a)(1)(A) (42 U.S.C. 404(a)(1)(A)) is amended by inserting after "payments to such overpaid person," the following: "or shall obtain recovery by means of reduction in tax refunds based on notice to the Secretary of the Treasury as permitted under section 3720A of title 31, United States Code,".

(b) RECOVERY BY MEANS OF REDUCTION IN TAX REFUNDS.—Section 3720A of title 31, United States Code (relating to collection of debts owed to Federal agencies) is amended—

(1) in subsection (a), by striking "OASDI overpayment and";

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting the following new subsection after subsection (e):

"(f)(1) Subsection (a) shall apply with respect to an OASDI overpayment made to any individual only if such individual is not currently entitled to monthly insurance benefits under title II of the Social Security Act.

"(2)(A) The requirements of subsection (b) shall not be treated as met in the case of the recovery of an OASDI overpayment from any individual under this section unless the notification under subsection (b)(1) describes the conditions under which the Secretary of Health and Human Services is required to waive recovery of an overpayment, as provided under section 204(b) of the Social Security Act.

"(B) In any case in which an individual files for a waiver under section 204(b) of the Social Security Act within the 60-day period referred to in subsection (b)(2), the Secretary of Health and Human Services shall not certify to the Secretary of the Treasury that the debt is valid under subsection (b)(4) before rendering a decision on the waiver request under such section 204(b). In lieu of payment, pursuant to subsection (c), to the Secretary of Health and Human Services of the amount of any reduction under this subsection based on an OASDI overpayment, the Secretary of the Treasury shall deposit such amount in the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, whichever is certified to the Secretary of the Treasury as appropriate by the Secretary of Health and Human Services.".

(c) INTERNAL REVENUE CODE PROVISIONS.—

(1) IN GENERAL.—Subsection (d) of section 6402 of the Internal Revenue Code of 1986 (relating to collection of debts owed to Federal agencies) is amended—

(A) in paragraph (1), by striking "any OASDI overpayment and"; and

(B) by striking paragraph (3) and inserting the following new paragraph:

"(3) TREATMENT OF OASDI OVERPAYMENTS.—

"(A) REQUIREMENTS.—Paragraph (1) shall apply with respect to an OASDI overpayment only if the requirements of paragraphs (1) and (2) of section 3720A(f) of title 31, United States Code, are met with respect to such overpayment.

"(B) NOTICE; PROTECTION OF OTHER PERSONS FILING JOINT RETURN.—

"(i) NOTICE.—In the case of a debt consisting of an OASDI overpayment, if the Secretary determines upon receipt of the notice referred to in paragraph (1) that the refund from which the reduction described in paragraph (1)(A) would be made is based upon a joint return, the Secretary shall—

"(I) notify each taxpayer filing such joint return that the reduction is being made from a refund based upon such return, and

"(II) include in such notification a description of the procedures to be followed, in the case of a joint return, to protect the share of the refund which may be payable to another person.

"(ii) ADJUSTMENTS BASED ON PROTECTIONS GIVEN TO OTHER TAXPAYERS ON JOINT RETURN.—If the other person filing a joint return with the person owing the OASDI overpayment takes appropriate action to secure his or her proper share of the refund subject to reduction under this subsection, the Secretary shall pay such share to such other person. The Secretary shall deduct the amount of such payment from amounts which are derived from subsequent reductions in refunds under this subsection and are payable to a trust fund referred to in subparagraph (C).

"(C) DEPOSIT OF AMOUNT OF REDUCTION INTO APPROPRIATE TRUST FUND.—In lieu of payment, pursuant to paragraph (1)(B), of the amount of any reduction under this subsection to the Secretary of Health and Human Services, the Secretary shall deposit such amount in the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, whichever is certified to the Secretary as appropriate by the Secretary of Health and Human Services.

"(D) OASDI OVERPAYMENT.—For purposes of this paragraph, the term 'OASDI overpayment' means any overpayment of benefits made to an individual under title II of the Social Security Act.".

(2) PRESERVATION OF REMEDIES.—Subsection (e) of section 6402 of such Code (relating to review of reductions) is amended in the last sentence by inserting before the period the following: "or any such action against the Secretary of Health and Human Services which is otherwise available with respect to re-

coveries of overpayments of benefits under section 204 of the Social Security Act".

(d) EFFECTIVE DATE.—The amendments made by this section—

(1) shall take effect January 1, 1991, and

(2) shall not apply to refunds to which the amendments made by section 2653 of the Deficit Reduction Act of 1984 (98 Stat. 1153) do not apply.

SEC. 5130. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) IN GENERAL.—

(1) AMENDMENT RELATING TO SECTION 7088 OF PUBLIC LAW 100-690.—Section 208 (42 U.S.C. 408) is amended, in the last undesignated paragraph, by striking "section 405(c)(2) of this title" and inserting "section 205(c)(2)".

(2) AMENDMENTS RELATING TO SECTION 322 OF PUBLIC LAW 98-21.—Paragraphs (1) and (2) of section 322(b) of the Social Security Amendments of 1983 (Public Law 98-21, 97 Stat. 121) are each amended by inserting "the first place it appears" before "the following".

(3) AMENDMENT RELATING TO SECTION 1011B(b)(4) OF PUBLIC LAW 100-647.—Section 211(a) (42 U.S.C. 411(a)) is amended by redesignating the second paragraph (14) as paragraph (15).

(4) AMENDMENT RELATING TO SECTION 2003(d) OF PUBLIC LAW 100-647.—Paragraph (3) of section 3509(d) of the Internal Revenue Code of 1986 (as amended by section 2003(d) of the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100-647; 102 Stat. 3598)) is further amended by striking "subsection (d)(4)" and inserting "subsection (d)(3)".

(5) AMENDMENT RELATING TO SECTION 10208 OF PUBLIC LAW 101-239.—Section 209(a)(7)(B) (42 U.S.C. 409(a)(7)(B)) is amended by striking "subparagraph (B)" in the matter following clause (ii) and inserting "clause (ii)".

(b) EFFECTIVE DATES.—The amendments made by subsection (a) shall be effective as if included in the enactment of the provision to which it relates.

TITLE VII—CIVIL SERVICE AND POSTAL SERVICE PROGRAMS

Subtitle C—Miscellaneous

SEC. 7201. COMPUTER MATCHING OF FEDERAL BENEFITS INFORMATION AND PRIVACY PROTECTION.

(a) SHORT TITLE.—This section may be cited as the "Computer Matching and Privacy Protection Amendments of 1990".

(b) VERIFICATION REQUIREMENTS AMENDMENT.—(1) Subsection (p) of section 552a of title 5, United States Code, is amended to read as follows:

"(p) VERIFICATION AND OPPORTUNITY TO CONTEST FINDINGS.—(1) In order to protect any individual whose records are used in a matching program, no recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to such individual, or take other adverse action against such individual, as a result of information produced by such matching program, until—

"(A)(i) the agency has independently verified the information; or

"(ii) the Data Integrity Board of the agency, or in the case of a non-Federal agency the Data Integrity Board of the source agency, determines in accordance with guidance issued by the Director of the Office of Management and Budget that—

"(I) the information is limited to identification and amount of benefits paid by the source agency under a Federal benefit program; and

"(II) there is a high degree of confidence that the information provided to the recipient agency is accurate;

"(B) the individual receives a notice from the agency containing a statement of its findings and informing the individual of the opportunity to contest such findings; and

"(C)(i) the expiration of any time period established for the program by statute or regulation for the individual to respond to that notice; or

"(ii) in the case of a program for which no such period is established, the end of the 30-day period beginning on the date on which notice under subparagraph (B) is mailed or otherwise provided to the individual.

"(2) Independent verification referred to in paragraph (1) requires investigation and confirmation of specific information relating to an individual that is used as a basis for an adverse action against the individual, including where applicable investigation and confirmation of—

"(A) the amount of any asset or income involved;

"(B) whether such individual actually has or had access to such asset or income for such individual's own use; and

"(C) the period or periods when the individual actually had such asset or income.

"(3) Notwithstanding paragraph (1), an agency may take any appropriate action otherwise prohibited by such paragraph if the agency determines that the public health or public safety may be ad-

versely affected or significantly threatened during any notice period required by such paragraph.".

(2) Not later than 90 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall publish guidance under subsection (p)(1)(A)(ii) of section 552a of title 5, United States Code, as amended by this Act.

(c) LIMITATION ON APPLICATION OF VERIFICATION REQUIREMENT.—Section 552a(p)(1)(A)(ii)(II) of title 5, United States Code, as amended by section 2, shall not apply to a program referred to in paragraph (1), (2), or (4) of section 1137(b) of the Social Security Act (42 U.S.C. 1320b-7), until the earlier of—

(1) the date on which the Data Integrity Board of the Federal agency which administers that program determines that there is not a high degree of confidence that information provided by that agency under Federal matching programs is accurate; or

(2) 30 days after the date of publication of guidance under section 2(b).

TITLE VIII—VETERANS' PROGRAMS

TABLE OF CONTENTS

Subtitle A—Compensation, DIC, and Pension

Sec. *8001. Compensation benefits for certain incompetent veterans.*
Sec. *8002. Elimination of presumption of total disability in determination of pension for certain veterans.*
Sec. *8003. Reduction in pension for certain veterans receiving Medicaid-covered nursing home care.*
Sec. *8004. Ineligibility of remarried surviving spouses or married children for reinstatement of benefits eligibility upon becoming single.*
Sec. *8005. Cost-of-living increases in compensation rates.*

Subtitle B—Health-Care Benefits

Sec. 8011. Medical-care cost recovery.
Sec. 8012. Copayment for medications.
Sec. 8013. Modification of health-care categories and copayments.

Subtitle C—Education and Employment

Sec. 8021. Limitation of rehabilitation program entitlement to service-disabled veterans rated at 20 percent or more.

Subtitle D—Housing and Loan Guaranty Assistance

Sec. 8031. Election of claim under guaranty of manufactured home loans.
Sec. 8032. Loan fee.

Subtitle E—Burial and Grave Marker Benefits

Sec. 8041. Headstone or marker allowance.
Sec. 8042. Plot allowance eligibility.

Subtitle F—Miscellaneous

Sec. 8051. Use of Internal Revenue Service and Social Security Administration data for income verification.
Sec. 8052. Line of duty.
Sec. 8053. Requirement for claimants to report social security numbers; use of death information by the Department of Veterans Affairs.

Subtitle F—Miscellaneous

SEC. 8051. USE OF INTERNAL REVENUE SERVICE AND SOCIAL SECURITY ADMINISTRATION DATA FOR INCOME VERIFICATION.

(a) DISCLOSURE OF TAX INFORMATION.—(1) Subparagraph (D) of section 6103(l)(7) of the Internal Revenue Code of 1986 (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended—

(A) by striking out "and" at the end of clause (vi);

(B) by striking out the period at the end of clause (vii) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following:

"(viii)(I) any needs-based pension provided under chapter 15 of title 38, United States Code, or under any other law administered by the Secretary of Veterans Affairs;

"(II) parents' dependency and indemnity compensation provided under section 415 of title 38, United States Code;

"(III) health-care services furnished under section 610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B) of such title; and

"(IV) compensation paid under chapter 11 of title 38, United States Code, at the 100 percent rate based solely on unemployability and without regard to the fact that the disability or disabilities are not rated as 100 percent disabling under the rating schedule.

Only return information from returns with respect to net earnings from self-employment and wages may be disclosed under this paragraph for use with respect to any program described in clause (viii)(IV). Clause (viii) shall not apply after September 30, 1992."

(2) The heading of paragraph (7) of section 6103(l) of such Code is amended by striking out "OR THE FOOD STAMP ACT OF 1977" and inserting in lieu thereof ", THE FOOD STAMP ACT OF 1977, OR TITLE 38, UNITED STATES CODE".

(b) USE OF INCOME INFORMATION FOR NEEDS-BASED PROGRAMS.—(1) Chapter 53 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 3117. Use of income information from other agencies: notice and verification

"(a) The Secretary shall notify each applicant for a benefit or service described in subsection (c) of this section that income information furnished by the applicant to the Secretary may be compared with information obtained by the Secretary from the Secretary of Health and Human Services or the Secretary of the Treasury under

section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986. The Secretary shall periodically transmit to recipients of such benefits and services additional notifications of such matters.

"(b) The Secretary may not, by reason of information obtained from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986, terminate, deny, suspend, or reduce any benefit or service described in subsection (c) of this section until the Secretary takes appropriate steps to verify independently information relating to the following:

"(1) The amount of the asset or income involved.

"(2) Whether such individual actually has (or had) access to such asset or income for the individual's own use.

"(3) The period or periods when the individual actually had such asset or income.

"(c) The benefits and services described in this subsection are the following:

"(1) Needs-based pension benefits provided under chapter 15 of this title or under any other law administered by the Secretary.

"(2) Parents' dependency and indemnity compensation provided under section 415 of this title.

"(3) Health-care services furnished under sections 610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B) of this title.

"(4) Compensation paid under chapter 11 of this title at the 100 percent rate based solely on unemployability and without regard to the fact that the disability or disabilities are not rated as 100 percent disabling under the rating schedule.

"(d) In the case of compensation described in subsection (c)(4) of this section, the Secretary may independently verify or otherwise act upon wage or self-employment information referred to in subsection (b) of this section only if the Secretary finds that the amount and duration of the earnings reported in that information clearly indicate that the individual may no longer be qualified for a rating of total disability.

"(e) The Secretary shall inform the individual of the findings made by the Secretary on the basis of verified information under subsection (b) of this section, and shall give the individual an opportunity to contest such findings, in the same manner as applies to other information and findings relating to eligibility for the benefit or service involved.

"(f) The Secretary shall pay the expenses of carrying out this section from amounts available to the Department for the payment of compensation and pension.

"(g) The authority of the Secretary to obtain information from the Secretary of the Treasury or the Secretary of Health and Human Services under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 expires on September 30, 1992.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3117. Use of income information from other agencies: notice and verification.".

(c) NOTICE TO CURRENT BENEFICIARIES.—(1) The Secretary of Veterans Affairs shall notify individuals who (as of the date of the en-

actment of this Act) are applicants for or recipients of the benefits described in subsection (c) (other than paragraph (3)) of section 3117 of title 38, United States Code (as added by subsection (b)), that income information furnished to the Secretary by such applicants and recipients may be compared with information obtained by the Secretary from the Secretary of Health and Human Services or the Secretary of the Treasury under clause (viii) of section 6103(l)(7)(D) of the Internal Revenue Code of 1986 (as added by subsection (a)).

(2) Notification under paragraph (1) shall be made not later than 90 days after the date of the enactment of this Act.

(3) The Secretary of Veterans Affairs may not obtain information from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 (as added by subsection (a)) until notification under paragraph (1) is made.

(d) GAO STUDY.—The Comptroller General of the United States shall conduct a study of the effectiveness of the amendments made by this section and shall submit a report on such study to the Committees on Veterans' Affairs and Ways and Means of the House of Representatives and the Committees on Veterans' Affairs and Finance of the Senate not later than January 1, 1992.

SEC. 8053. REQUIREMENT FOR CLAIMANTS TO REPORT SOCIAL SECURITY NUMBERS; USES OF DEATH INFORMATION BY THE DEPARTMENT OF VETERANS AFFAIRS.

(a) MANDATORY REPORTING OF SOCIAL SECURITY NUMBERS.—Section 3001 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) Any person who applies for or is in receipt of any compensation or pension benefit under laws administered by the Secretary shall, if requested by the Secretary, furnish the Secretary with the social security number of such person and the social security number of any dependent or beneficiary on whose behalf, or based upon whom, such person applies for or is in receipt of such benefit. A person is not required to furnish the Secretary with a social security number for any person to whom a social security number has not been assigned.

"(2) The Secretary shall deny the application of or terminate the payment of compensation or pension to a person who fails to furnish the Secretary with a social security number required to be furnished pursuant to paragraph (1) of this subsection. The Secretary may thereafter reconsider the application or reinstate payment of compensation or pension, as the case may be, if such person furnishes the Secretary with such social security number.

"(3) The costs of administering this subsection shall be paid for from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.".

(b) REVIEW OF DEPARTMENT OF HEALTH AND HUMAN SERVICES DEATH INFORMATION TO IDENTIFY DECEASED RECIPIENTS OF COMPENSATION AND PENSION BENEFITS.—(1) Chapter 53 of title 38, United States Code, as amended by section 8051(b), is further amended by adding at the end the following new section:

"§ 3118. Review of Department of Health and Human Services death information

"(a) The Secretary shall periodically compare Department of Veterans Affairs information regarding persons to or for whom compensation or pension is being paid with information in the records of the Department of Health and Human Services relating to persons who have died for the purposes of—

"(1) determining whether any such persons to whom compensation and pension is being paid are deceased;

"(2) ensuring that such payments to or for any such persons who are deceased are terminated in a timely manner; and

"(3) ensuring that collection of overpayments of such benefits resulting from payments after the death of such persons is initiated in a timely manner.

"(b) The Department of Health and Human Services death information referred to in subsection (a) of this section is death information available to the Secretary from or through the Secretary of Health and Human Services, including death information available to the Secretary of Health and Human Services from a State, pursuant to a memorandum of understanding entered into by such Secretaries. Any such memorandum of understanding shall include safeguards to assure that information made available under it is not used for unauthorized purposes or improperly disclosed.".

(2) The table of sections at the beginning of such chapter, as amended by section 8051(b), is further amended by adding at the end the following:

"3118. Review of Department of Health and Human Services death information.".

TITLE XI—REVENUE PROVISIONS

SEC. 11001. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the "Revenue Reconciliation Act of 1990".

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

(c) SECTION 15 NOT TO APPLY.—Except as otherwise expressly provided in this title, no amendment made by this title shall be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

(d) TABLE OF CONTENTS.—

TITLE XI—REVENUE PROVISIONS

Sec. 11001. Short title; etc.

Subtitle A—Individual Income Tax Provisions

PART I—PROVISIONS AFFECTING HIGH-INCOME INDIVIDUALS

Sec. 11101. Elimination of provision reducing marginal tax rate for high-income taxpayers.
Sec. 11102. Increase in rate of individual alternative minimum tax.
Sec. 11103. Overall limitation on itemized deductions.
Sec. 11104. Phaseout of personal exemptions.

PART II—MODIFICATIONS OF EARNED INCOME CREDIT

Sec. 11111. Modifications of earned income tax credit.
Sec. 11112. Requirement of identifying number for certain dependents.
Sec. 11113. Study of advance payments.
Sec. 11114. Program to increase public awareness.
Sec. 11115. Exclusion from income and resources of earned income tax credit under titles IV, XVI, and XIX of the Social Security Act.
Sec. 11116. Coordination with refund provision.

Subtitle B—Excise Taxes

Part I—Taxes Related to Health and the Environment

Sec. 11201. Increase in excise taxes on distilled spirits, wine, and beer.
Sec. 11202. Increase in excise taxes on tobacco products.
Sec. 11203. Additional chemicals subject to tax on ozone-depleting chemicals.

Part II—User-Related Taxes

Sec. 11211. Increase and extension of highway-related taxes and trust fund.
Sec. 11212. Improvements in administration of gasoline excise tax.
Sec. 11213. Increase and extension of aviation-related taxes and trust fund; repeal of reduction in rates.

Sec. 11214. Increase in harbor maintenance tax.
Sec. 11215. Extension of Leaking Underground Storage Tank Trust Fund taxes.
Sec. 11216. Amendments to gas guzzler tax.
Sec. 11217. Telephone excise tax modified and made permanent.
Sec. 11218. Floor stocks tax treatment of articles in foreign trade zones.

Part III—Taxes on Luxury Items

Sec. 11221. Taxes on luxury items.

Part IV—4-Year Extension of Hazardous Substance Superfund

Sec. 11231. 4-year extension of Hazardous Substance Superfund.

Subtitle C—Other Revenue Increases

Part I—Insurance Provisions

SUBPART A—PROVISIONS RELATED TO POLICY ACQUISITION COSTS

Sec. 11301. Capitalization of policy acquisition expenses.
Sec. 11302. Treatment of certain nonlife reserves of life insurance companies.
Sec. 11303. Treatment of life insurance reserves of insurance companies which are not life insurance companies.

SUBPART B—TREATMENT OF SALVAGE RECOVERABLE

Sec. 11305. Treatment of salvage recoverable.

SUBPART C—WAIVER OF ESTIMATED TAX PENALTIES

Sec. 11307. Waiver of estimated tax penalties.

Part II—Compliance Provisions

Sec. 11311. Suspension of statute of limitations during proceedings to enforce certain summonses.
Sec. 11312. Accuracy-related penalty to apply to section 482 adjustments.
Sec. 11313. Treatment of persons providing services.
Sec. 11314. Application of amendments made by section 7403 of Revenue Reconciliation Act of 1989 to taxable years beginning on or before July 10, 1989.
Sec. 11315. Other reporting requirements.
Sec. 11316. Study of section 482.
Sec. 11317. 10-year period of limitation on collection after assessment.
Sec. 11318. Return requirement where cash received in trade or business.
Sec. 11319. 5-year extension of Internal Revenue Service user fees.

Part III—Corporate Provisions

Sec. 11321. Recognition of gain by distributing corporation in certain section 355 transactions.
Sec. 11322. Modifications to regulations issued under section 305(c).
Sec. 11323. Modifications to section 1060.
Sec. 11324. Modification to corporation equity reduction limitations on net operating loss carrybacks.
Sec. 11325. Issuance of debt or stock in satisfaction of indebtedness.

Part IV—Employment Tax Provisions

Sec. 11331. Increase in dollar limitation on amount of wages subject to hospital insurance tax.
Sec. 11332. Coverage of certain State and local employees under social security.
Sec. 11333. Extension of FUTA surtax.
Sec. 11334. Deposits of payroll taxes.

Part V—Miscellaneous Provisions

Sec. 11341. Increase in rate of interest payable on large corporate underpayments.
Sec. 11342. Denial of deduction for unnecessary cosmetic surgery.
Sec. 11343. Special rules where grantor of trust is a foreign person.
Sec. 11344. Treatment of contributions of appreciated property under minimum tax.

Subtitle D—1-Year Extension of Certain Expiring Tax Provisions

Sec. 11401. Allocation of research and experimental expenditures.
Sec. 11402. Research credit.

Sec. 11403. Employer-provided educational assistance.
Sec. 11404. Group legal services plans.
Sec. 11405. Targeted jobs credit.
Sec. 11406. Energy investment credit for solar and geothermal property.
Sec. 11407. Low-income housing credit.
Sec. 11408. Qualified mortgage bonds.
Sec. 11409. Qualified small issue bonds.
Sec. 11410. Health insurance costs of self-employed individuals.
Sec. 11411. Expenses for drugs for rare conditions.

Subtitle E—Energy Incentives

PART I—MODIFICATIONS OF EXISTING CREDITS

Sec. 11501. Extension and modification of credit for producing fuel from nonconventional source.
Sec. 11502. Credit for small producers of ethanol; modification of alcohol fuels credit.

PART II—ENHANCED OIL RECOVERY CREDIT

Sec. 11511. Tax credit for enhanced oil recovery.

PART III—MODIFICATIONS OF PERCENTAGE DEPLETION

Sec. 11521. Percentage depletion permitted after transfer of proven property.
Sec. 11522. Net income limitation on percentage depletion increased from 50 percent to 100 percent of property net income for oil and gas properties.
Sec. 11523. Increase in percentage depletion allowance for marginal production.

PART IV—MINIMUM TAX TREATMENT

Sec. 11531. Special energy deduction for minimum tax.

Subtitle F—Small Business Incentives

PART I—TREATMENT OF ESTATE TAX FREEZES

Sec. 11601. Repeal of section 2036(c).
Sec. 11602. Special valuation rules.

PART II—DISABLED ACCESS CREDIT

Sec. 11611. Credit for cost of providing access for disabled individuals.

PART III—OTHER PROVISIONS

Sec. 11621. Review of impact of regulations on small business.
Sec. 11622. Graphic presentation of major categories of Federal outlays and income.

Subtitle G—Tax Technical Corrections

Sec. 11700. Coordination with other subtitles.
Sec. 11701. Amendments related to Revenue Reconciliation Act of 1989.
Sec. 11702. Amendments related to Technical and Miscellaneous Revenue Act of 1988.
Sec. 11703. Miscellaneous amendments.
Sec. 11704. Miscellaneous clerical changes.

Subtitle H—Repeal of Expired or Obsolete Provisions

PART I—REPEAL OF EXPIRED OR OBSOLETE PROVISIONS

SUBPART A—GENERAL PROVISIONS

Sec. 11801. Repeal of expired or obsolete provisions.
Sec. 11802. Miscellaneous provisions.

SUBPART B—MODIFICATIONS TO SPECIFIC PROVISIONS

Sec. 11811. Elimination of expired provisions in section 172.
Sec. 11812. Elimination of obsolete provisions in section 167.
Sec. 11813. Elimination of expired or obsolete investment tax credit provisions.
Sec. 11814. Elimination of obsolete provisions in section 243(b).
Sec. 11815. Elimination of expired provisions in percentage depletion.
Sec. 11816. Elimination of expired provisions in section 29.

SUBPART C—EFFECTIVE DATE

Sec. 11821. Effective date.

PART II—PROVISIONS RELATING TO STUDIES

Sec. 11831. Extension of date for filing reports on certain studies.
Sec. 11832. Repeal of certain studies.
Sec. 11833. Modifications to study of Americans working abroad.
Sec. 11834. Increase in threshold for joint committee reports on refunds and credits.

SUBTITLE I—PUBLIC DEBT LIMIT

Sec. 11901. Increase in public debt limit.

PART IV—EMPLOYMENT TAX PROVISIONS

SEC. 11331. INCREASE IN DOLLAR LIMITATION ON AMOUNT OF WAGES SUBJECT TO HOSPITAL INSURANCE TAX.

(a) HOSPITAL INSURANCE TAX.—

(1) IN GENERAL.—Paragraph (1) of section 3121(a) is amended—

(A) by striking "contribution and benefit base (as determined under section 230 of the Social Security Act)" each place it appears and inserting "applicable contribution base (as determined under subsection (x))", and

(B) by striking "such contribution and benefit base" and inserting "such applicable contribution base".

(2) APPLICABLE CONTRIBUTION BASE.—Section 3121 is amended by adding at the end thereof the following new subsection:

"(x) APPLICABLE CONTRIBUTION BASE.—For purposes of this chapter—

"(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—For purposes of the taxes imposed by sections 3101(a) and 3111(a), the applicable contribution base for any calendar year is the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(2) HOSPITAL INSURANCE.—For purposes of the taxes imposed by section 3101(b) and 3111(b), the applicable contribution base is—

"(A) $125,000 for calendar year 1991, and

"(B) for any calendar year after 1991, the applicable contribution base for the preceding year adjusted in the same manner as is used in adjusting the contribution and benefit base under section 230(b) of the Social Security Act."

(b) SELF-EMPLOYMENT TAX.—

(1) IN GENERAL.—Subsection (b) of section 1402 is amended by striking "the contribution and benefit base (as determined under section 230 of the Social Security Act)" and inserting "the applicable contribution base (as determined under subsection (k))".

(2) APPLICABLE CONTRIBUTION BASE.—Section 1402 is amended by adding at the end thereof the following new subsection:

"(k) APPLICABLE CONTRIBUTION BASE.—For purposes of this chapter—

"(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—For purposes of the tax imposed by section 1401(a), the applicable contribution base for any calendar year is the contribution and

benefit base determined under section 230 of the Social Security Act for such calendar year.

"(2) HOSPITAL INSURANCE.—For purposes of the tax imposed by section 1401(b), the applicable contribution base for any calendar year is the applicable contribution base determined under section 3121(x)(2) for such calendar year."

(c) RAILROAD RETIREMENT TAX.—Clause (i) of section 3231(e)(2)(B) is amended to read as follows:

"(i) TIER 1 TAXES.—

"(I) IN GENERAL.—Except as provided in subclause (II) of this clause and in clause (ii), the term 'applicable base' means for any calendar year the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(II) HOSPITAL INSURANCE TAXES.—For purposes of applying so much of the rate applicable under section 3201(a) or 3221(a) (as the case may be) as does not exceed the rate of tax in effect under section 3101(b), and for purposes of applying so much of the rate of tax applicable under section 3211(a)(1) as does not exceed the rate of tax in effect under section 1401(b), the term 'applicable base' means for any calendar year the applicable contribution base determined under section 3121(x)(2) for such calendar year."

(d) TECHNICAL AMENDMENT.—

(1) Paragraph (3) of section 6413(c) is amended to read as follows:

"(3) SEPARATE APPLICATION FOR HOSPITAL INSURANCE TAXES.—In applying this subsection with respect to—

"(A) the tax imposed by section 3101(b) (or any amount equivalent to such tax), and

"(B) so much of the tax imposed by section 3201 as is determined at a rate not greater than the rate in effect under section 3101(b),

the applicable contribution base determined under section 3121(x)(2) for any calendar year shall be substituted for 'contribution and benefit base (as determined under section 230 of the Social Security Act)' each place it appears."

(2) Sections 3122 and 3125 are each amended by striking "contribution and benefit base limitation" each place it appears and inserting "applicable contribution base limitation".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to 1991 and later calendar years.

SEC. 11332. COVERAGE OF CERTAIN STATE AND LOCAL EMPLOYEES UNDER SOCIAL SECURITY.

(a) EMPLOYMENT UNDER OASDI.—Paragraph (7) of section 210(a) of the Social Security Act (42 U.S.C. 410(a)(7)) is amended—

(1) by striking "or" at the end of subparagraph (D);

(2) by striking the semicolon at the end of subparagraph (E) and inserting ", or"; and

(3) by adding at the end the following new subparagraph:

"(F) service in the employ of a State (other than the District of Columbia, Guam, or American Samoa), of any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, by an individual who is not a member of a retirement system of such State, political subdivision, or instrumentality, except that the provisions of this subparagraph shall not be applicable to service performed—

"(i) by an individual who is employed to relieve such individual from unemployment;

"(ii) in a hospital, home, or other institution by a patient or inmate thereof;

"(iii) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency;

"(iv) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $100; or

"(v) by an employee in a position compensated solely on a fee basis which is treated pursuant to section 211(c)(2)(E) as a trade or business for purposes of inclusion of such fees in net earnings from self employment;

for purposes of this subparagraph, except as provided in regulations prescribed by the Secretary of the Treasury, the term 'retirement system' has the meaning given such term by section 218(b)(4);".

(b) EMPLOYMENT UNDER FICA.—Paragraph (7) of section 3121(b) of the Internal Revenue Code of 1986 is amended—

(1) by striking "or" at the end of subparagraph (D);

(2) by striking the semicolon at the end of subparagraph (E) and inserting ", or"; and

(3) by adding at the end the following new subparagraph:

"(F) service in the employ of a State (other than the District of Columbia, Guam, or American Samoa), of any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, by an individual who is not a member of a retirement system of such State, political subdivision, or instrumentality, except that the provisions of this subparagraph shall not be applicable to service performed—

"(i) by an individual who is employed to relieve such individual from unemployment;

"(ii) in a hospital, home, or other institution by a patient or inmate thereof;

"(iii) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency;

"(iv) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $100; or

"(v) by an employee in a position compensated solely on a fee basis which is treated pursuant to section 1402(c)(2)(E) as a trade or business for purposes of in-

clusion of such fees in net earnings from self-employment;

for purposes of this subparagraph, except as provided in regulations prescribed by the Secretary, the term 'retirement system' has the meaning given such term by section 218(b)(4) of the Social Security Act;".

(c) MANDATORY EXCLUSION OF CERTAIN EMPLOYEES FROM STATE AGREEMENTS.—Section 218(c)(6) of the Social Security Act (42 U.S.C. 418(c)(6)) 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 in lieu thereof ", and"; and

(3) by adding at the end the following new subparagraph:

"(F) service described in section 210(a)(7)(F) which is included as 'employment' under section 210(a).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to service performed after July 1, 1991.

SEC. 11334. DEPOSITS OF PAYROLL TAXES.

(a) IN GENERAL—Subsection (g) of section 6302 is amended to read as follows:

"(g) DEPOSITS OF SOCIAL SECURITY TAXES AND WITHHELD INCOME TAXES.—If, under regulations prescribed by the Secretary, a person is required to make deposits of taxes imposed by chapters 21 and 24 on the basis of eighth-month periods, such person shall make deposits of such taxes on the 1st banking day after any day on which such person has $100,000 or more of such taxes for deposit."

(b) TECHNICAL AMENDMENT.—Paragraph (2) of section 7632(b) of the Revenue Reconciliation Act of 1989 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts required to be deposited after December 31, 1990.

Subtitle D—1-Year Extension of Certain Expiring Tax Provisions

SEC. 11403. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking "September 30, 1990" and inserting "December 31, 1991".

(b) REPEAL OF LIMITATION ON GRADUATE LEVEL ASSISTANCE.—Section 127(c)(1) is amended by striking the last sentence.

(c) CONFORMING AMENDMENT.—Subsection (a) of section 7101 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2).

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1989.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1990.

SEC. 11404. GROUP LEGAL SERVICES PLANS.

(a) IN GENERAL.—Subsection (e) of section 120 (relating to amounts received under qualified group legal services plans) is amended by striking "September 30, 1990" and inserting "December 31, 1991".

(b) CONFORMING AMENDMENT.—Subsection (a) of section 7102 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

TITLE XIII—BUDGET ENFORCEMENT

SEC. 13001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.— This title may be cited as the "Budget Enforcement Act of 1990".

(b) TABLE OF CONTENTS.—

TITLE XIII—BUDGET ENFORCEMENT

Subtitle A—Amendments to the Balanced Budget and Emergency Deficit Control Act of 1985 and Related Amendments

Sec. 13001. Short title; Table of contents.

PART I—AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985

Sec. 13101. Sequestration.

PART II—RELATED AMENDMENTS

Sec. 13111. Temporary Amendments to the Congressional Budget Act of 1974.
Sec. 13112. Conforming amendments.

Subtitle B—Permanent Amendments to the Congressional Budget and Impoundment Control Act of 1974

Sec. 13201. Credit Accounting.
Sec. 13202. Codification of Provision Regarding Revenue Estimates.
Sec. 13203. Debt Increase As Measure of Deficit; Display of Federal Retirement Trust Fund Balances.

Sec. 13204. Pay-as-you-go Procedures.
Sec. 13205. Amendments to Section 303.
Sec. 13206. Amendments to Section 308.
Sec. 13207. Standardization of Language Regarding Points of Order.
Sec. 13208. Standardization of Additional Deficit Control Provisions.
Sec. 13209. Codification of Precedent with regard to Conference Reports and Amendments between Houses.
Sec. 13210. Superseded Deadlines and Conforming Changes.
Sec. 13211. Definitions.
Sec. 13212. Savings Transfers between Fiscal Years.
Sec. 13213. Conforming Change to Title 31.
Sec. 13214. The Byrd Rule on Extraneous Matter in Reconciliation.

Subtitle C—Social Security

Sec. 13301. Off-budget Status of OASDI Trust Funds.
Sec. 13302. Protection of OASDI Trust Funds in the House of Representatives.
Sec. 13303. Social Security Firewall and Point of Order in the Senate.
Sec. 13304. Report to the Congress by the Board of Trustees of the OASDI Trust Funds Regarding the Actuarial Balance of the Trust Funds.
Sec. 13305. Exercise of Rulemaking Power.
Sec. 13306. Effective Date.

Subtitle D—Treatment of Fiscal Year 1991 Sequestration

Sec. 13401. Restoration of Funds Sequestered.

Subtitle E—Government-sponsored Enterprises

Sec. 13501. Financial Safety and Soundness of Government-Sponsored Enterprises.

Subtitle A—Amendments to the Balanced Budget and Emergency Deficit Control Act of 1985 and Related Amendments

PART I—AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985

SEC. 13101. SEQUESTRATION.

(a) SECTIONS 250 THROUGH 254.—Sections 251 (except for subsection (a)(6)(I)) through 254 of part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) are amended to read as follows:

"SEC. 250. TABLE OF CONTENTS; STATEMENT OF BUDGET ENFORCEMENT THROUGH SEQUESTRATION; DEFINITIONS.

"(a) TABLE OF CONTENTS.—

"Sec. 250. Table of contents; budget enforcement statement; definitions.
"Sec. 251. Enforcing discretionary spending limits.
"Sec. 252. Enforcing pay-as-you-go.
"Sec. 253. Enforcing deficit targets.
"Sec. 254. Reports and orders.
"Sec. 255. Exempt programs and activities.
"Sec. 256. Special rules.
"Sec. 257. The baseline.
"Sec. 258. Suspension in the event of war or low growth.
"Sec. 258A. Modification of presidential order.
"Sec. 258B. Alternative defense sequestration.
"Sec. 258C. Special reconciliation process.

"(b) GENERAL STATEMENT OF BUDGET ENFORCEMENT THROUGH SEQUESTRATION.—This part provides for the enforcement of the deficit reduction assumed in House Concurrent Resolution 310 (101st

Congress, second session) and the applicable deficit targets for fiscal years 1991 through 1995. Enforcement, as necessary, is to be implemented through sequestration—

"(1) to enforce discretionary spending levels assumed in that resolution (with adjustments as provided hereinafter);

"(2) to enforce the requirement that any legislation increasing direct spending or decreasing revenues be on a pay-as-you-go basis; and

"(3) to enforce the deficit targets specifically set forth in the Congressional Budget and Impoundment Control Act of 1974 (with adjustments as provided hereinafter);

applied in the order set forth above.

"(c) DEFINITIONS.—

"As used in this part:

"(1) The terms 'budget authority', 'new budget authority', 'outlays', and 'deficit' have the meanings given to such terms in section 3 of the Congressional Budget and Impoundment Control Act of 1974 (but including the treatment specified in section 257(b)(3) of the Hospital Insurance Trust Fund) and the terms 'maximum deficit amount' and 'discretionary spending limit' shall mean the amounts specified in section 601 of that Act as adjusted under sections 251 and 253 of this Act.

"(2) The terms 'sequester' and 'sequestration' refer to or mean the cancellation of budgetary resources provided by discretionary appropriations or direct spending law.

"(3) The term 'breach' means, for any fiscal year, the amount (if any) by which new budget authority or outlays for that year (within a category of discretionary appropriations) is above that category's discretionary spending limit for new budget authority or outlays for that year, as the case may be.

"(4) The term 'category' means:

"(A) For fiscal years 1991, 1992, and 1993, any of the following subsets of discretionary appropriations: defense, international, or domestic. Discretionary appropriations in each of the three categories shall be those so designated in the joint statement of managers accompanying the conference report on the Omnibus Budget Reconciliation Act of 1990. New accounts or activities shall be categorized in consultation with the Committees on Appropriations and the Budget of the House of Representatives and the Senate.

"(B) For fiscal years 1994 and 1995, all discretionary appropriations.

Contributions to the United States to offset the cost of Operation Desert Shield shall not be counted within any category.

"(5) The term 'baseline' means the projection (described in section 257) of current-year levels of new budget authority, outlays, receipts, and the surplus or deficit into the budget year and the outyears.

"(6) The term 'budgetary resources' means—

"(A) with respect to budget year 1991, new budget authority; unobligated balances; new loan guarantee commitments or limitations; new direct loan obligations, commitments, or limitations; direct spending authority; and obligation limitations; or

"(B) with respect to budget year 1992, 1993, 1994, or 1995, new budget authority; unobligated balances; direct spending authority; and obligation limitations.

"(7) The term 'discretionary appropriations' means budgetary resources (except to fund direct-spending programs) provided in appropriation Acts.

"(8) The term 'direct spending' means—

"(A) budget authority provided by law other than appropriation Acts;

"(B) entitlement authority; and

"(C) the food stamp program.

"(9) The term 'current' means, with respect to OMB estimates included with a budget submission under section 1105(a) of title 31, United States Code, the estimates consistent with the economic and technical assumptions underlying that budget and with respect to estimates made after submission of the fiscal year 1992 budget that are not included with a budget submission, estimates consistent with the economic and technical assumptions underlying the most recently submitted President's budget.

"(10) The term 'real economic growth', with respect to any fiscal year, means the growth in the gross national product during such fiscal year, adjusted for inflation, consistent with Department of Commerce definitions.

"(11) The term 'account' means an item for which appropriations are made in any appropriation Act and, for items not provided for in appropriation Acts, such term means an item for which there is a designated budget account identification code number in the President's budget.

"(12) The term 'budget year' means, with respect to a session of Congress, the fiscal year of the Government that starts on October 1 of the calendar year in which that session begins.

"(13) The term 'current year' means, with respect to a budget year, the fiscal year that immediately precedes that budget year.

"(14) The term 'outyear' means, with respect to a budget year, any of the fiscal years that follow the budget year through fiscal year 1995.

"(15) The term 'OMB' means the Director of the Office of Management and Budget.

"(16) The term 'CBO' means the Director of the Congressional Budget Office.

"(17) For purposes of sections 252 and 253, legislation enacted during the second session of the One Hundred First Congress shall be deemed to have been enacted before the enactment of this Act.

"(18) As used in this part, all references to entitlement authority shall include the list of mandatory appropriations included in the joint explanatory statement of managers accompanying the conference report on the Omnibus Budget Reconciliation Act of 1990.

"(19) The term 'deposit insurance' refers to the expenses of the Federal Deposit Insurance Corporation and the funds it incorporates, the Resolution Trust Corporation, the National Credit Union Administration and the funds it incorporates, the Office

of Thrift Supervision, the Comptroller of the Currency Assessment Fund, and the RTC Office of Inspector General.

"(20) The term 'composite outlay rate' means the percent of new budget authority that is converted to outlays in the fiscal year for which the budget authority is provided and subsequent fiscal years, as follows:

"(A) For the international category, 46 percent for the first year, 20 percent for the second year, 16 percent for the third year, and 8 percent for the fourth year.

"(B) For the domestic category, 53 percent for the first year, 31 percent for the second year, 12 percent for the third year, and 2 percent for the fourth year.

"SEC. 251. ENFORCING DISCRETIONARY SPENDING LIMITS.

"(a) FISCAL YEARS 1991-1995 ENFORCEMENT.—

"(1) SEQUESTRATION.—Within 15 calendar days after Congress adjourns to end a session and on the same day as a sequestration (if any) under section 252 and section 253, there shall be a sequestration to eliminate a budget-year breach, if any, within any category.

"(2) 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; except that the health programs set forth in section 256(e) shall not be reduced by more than 2 percent and the uniform percent applicable to all other programs under this paragraph shall be increased (if necessary) to a level sufficient to eliminate that breach. If, within a category, the discretionary spending limits for both new budget authority and outlays are breached, the uniform percentage shall be calculated by—

"(A) first, calculating the uniform percentage necessary to eliminate the breach in new budget authority, and

"(B) second, if any breach in outlays remains, increasing the uniform percentage to a level sufficient to eliminate that breach.

"(3) MILITARY PERSONNEL.—If the President uses the authority to exempt any military personnel from sequestration under section 255(h), each account within subfunctional category 051 (other than those military personnel accounts for which the authority provided under section 255(h) has been exercised) shall be further reduced by a dollar amount calculated by multiplying the enacted level of non-exempt budgetary resources in that account at that time by the uniform percentage necessary to offset the total dollar amount by which outlays are not reduced in military personnel accounts by reason of the use of such authority.

"(4) PART-YEAR APPROPRIATIONS.—If, on the date specified in paragraph (1), there is in effect an Act making or continuing appropriations for part of a fiscal year for any budget account, then the dollar sequestration calculated for that account under paragraphs (2) and (3) shall be subtracted from—

35-428 0 - 90 - 20

"(A) the annualized amount otherwise available by law in that account under that or a subsequent part-year appropriation; and

"(B) when a full-year appropriation for that account is enacted, from the amount otherwise provided by the full-year appropriation.

"(5) LOOK-BACK.—If, after June 30, an appropriation for the fiscal year in progress is enacted that causes a breach within a category for that year (after taking into account any sequestration of amounts within that category), the discretionary spending limits for that category for the next fiscal year shall be reduced by the amount or amounts of that breach.

"(6) WITHIN-SESSION SEQUESTRATION.—If an appropriation for a fiscal year in progress is enacted (after Congress adjourns to end the session for that budget year and before July 1 of that fiscal year) that causes a breach within a category for that year (after taking into account any prior sequestration of amounts within that category), 15 days later there shall be a sequestration to eliminate that breach within that category following the procedures set forth in paragraphs (2) through (4).

"(7) OMB ESTIMATES.—As soon as practicable after Congress completes action on any discretionary appropriation, CBO, after consultation with the Committees on the Budget of the House of Representatives and the Senate, shall provide OMB with an estimate of the amount of discretionary new budget authority and outlays for the current year (if any) and the budget year provided by that legislation. Within 5 calendar days after the enactment of any discretionary appropriation, OMB shall transmit a report to the House of Representatives and to the Senate containing the CBO estimate of that legislation, an OMB estimate of the amount of discretionary new budget authority and outlays for the current year (if any) and the budget year provided by that legislation, and an explanation of any difference between the two estimates. For purposes of this paragraph, amounts provided by annual appropriations shall include any new budget authority and outlays for those years in accounts for which funding is provided in that legislation that result from previously enacted legislation. Those OMB estimates shall be made using current economic and technical assumptions. OMB shall use the OMB estimates transmitted to the Congress under this paragraph for the purposes of this subsection. OMB and CBO shall prepare estimates under this paragraph in conformance with scorekeeping guidelines determined after consultation among the House and Senate Committees on the Budget, CBO, and OMB.

"(b) ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS.—(1) When the President submits the budget under section 1105(a) of title 31, United States Code, for budget year 1992, 1993, 1994, or 1995 (except as otherwise indicated), OMB shall calculate (in the order set forth below), and the budget shall include, adjustments to discretionary spending limits (and those limits as cumulatively adjusted) for the budget year and each outyear through 1995 to reflect the following:

"(A) CHANGES IN CONCEPTS AND DEFINITIONS.—The adjustments produced by the amendments made by title XIII of the Omnibus Budget Reconciliation Act of 1990 or by any other 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 other changes in concepts and definitions may only be made in consultation with the Committees on Appropriations, the Budget, Government Operations, and Governmental Affairs of the House of Representatives and Senate.

"(B) CHANGES IN INFLATION.—(i) For a budget submitted for budget year 1992, 1993, 1994, or 1995, the adjustments produced by changes in inflation shall equal the levels of discretionary new budget authority and outlays in the baseline (calculated using current estimates) subtracted from those levels in that baseline recalculated with the baseline inflators for the budget year only, multiplied by the inflation adjustment factor computed under clause (ii).

"(ii) For a budget year the inflation adjustment factor 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 year set forth below:

"For 1990, 1.041
"For 1991, 1.052
"For 1992, 1.041
"For 1993, 1.033

Inflation shall be measured by the average of the estimated gross national product implicit price deflator index for a fiscal year divided by the average index for the prior fiscal year.

"(C) CREDIT REESTIMATES.—For a budget submitted for fiscal year 1993 or 1994, the adjustments produced by reestimates to costs of Federal credit programs shall be, for any such program, a current estimate of new budget authority and outlays associated with a baseline projection of the prior year's gross loan level for that program minus the baseline projection of the prior year's new budget authority and associated outlays for that program.

(2) When OMB submits a sequestration report under section 254(g) or (h) for fiscal year 1991, 1992, 1993, 1994, or 1995 (except as otherwise indicated), OMB shall calculate (in the order set forth below), and the sequestration report, and subsequent budgets submitted by the President under section 1105(a) of title 31, United States Code, shall include, adjustments to discretionary spending limits (and those limits as adjusted) for the fiscal year and each succeeding year through 1995, as follows:

"(A) IRS FUNDING.—To the extent that appropriations are enacted that provide additional new budget authority or result in additional outlays (as compared with the CBO baseline constructed in June 1990) for the Internal Revenue Service compliance initiative in any fiscal year, the adjustments for that year shall be those amounts, but shall not exceed the amounts set forth below—

"(i) for fiscal year 1991, $191,000,000 in new budget authority and $183,000,000 in outlays;

"(ii) for fiscal year 1992, $172,000,000 in new budget authority and $169,000,000 in outlays;

"(iii) for fiscal year 1993, $183,000,000 in new budget authority and $179,000,000 in outlays;

"(iv) for fiscal year 1994, $187,000,000 in new budget authority and $183,000,000 in outlays; and

"(v) for fiscal year 1995, $188,000,000 in new budget authority and $184,000,000 in outlays; and

the prior-year outlays resulting from these appropriations of budget authority.

"(B) DEBT FORGIVENESS.—If, in calendar year 1990 or 1991, an appropriation is enacted that forgives the Arab Republic of Egypt's foreign military sales indebtedness to the United States and any part of the Government of Poland's indebtedness to the United States, the adjustment shall be the estimated costs (in new budget authority and outlays, in all years) of that forgiveness.

"(C) IMF FUNDING.—If, in fiscal year 1991, 1992, 1993, 1994, or 1995 an appropriation is enacted to provide to the International Monetary Fund the dollar equivalent, in terms of Special Drawing Rights, of the increase in the United States quota as part of the International Monetary Fund Ninth General Review of Quotas, the adjustment shall be the amount provided by that appropriation.

"(D) EMERGENCY APPROPRIATIONS.—(i) If, for fiscal year 1991, 1992, 1993, 1994, or 1995, appropriations for discretionary accounts are enacted that the President designates as emergency requirements and that the Congress so designates in statute, the adjustment shall be the total of such appropriations in discretionary accounts designated as emergency requirements and the outlays flowing in all years from such appropriations.

"(ii) The costs for operation Desert Shield are to be treated as emergency funding requirements not subject to the defense spending limits. Funding for Desert Shield will be provided through the normal legislative process. Desert Shield costs should be accommodated through Allied burden-sharing, subsequent appropriation Acts, and if the President so chooses, through offsets within other defense accounts. Emergency Desert Shield costs mean those incremental costs associated with the increase in operations in the Middle East and do not include costs that would be experienced by the Department of Defense as part of its normal operations absent Operation Desert Shield.

"(E) SPECIAL ALLOWANCE FOR DISCRETIONARY NEW BUDGET AUTHORITY.—(i) For each of fiscal years 1992 and 1993, the adjustment for the domestic category in each year shall be an amount equal to 0.1 percent of the sum of the adjusted discretionary spending limits on new budget authority for all categories for fiscal years 1991, 1992, and 1993 (cumulatively), together with outlays associated therewith (calculated at the composite outlay rate for the domestic category);

"(ii) for each of fiscal years 1992 and 1993, the adjustment for the international category in each year shall be an amount equal to 0.079 percent of the sum of the adjusted discretionary spending limits on new budget authority for all categories for fiscal years 1991, 1992, and 1993 (cumulatively), together with outlays associated therewith (calculated at the composite outlay rate for the international category); and

"(iii) if, for fiscal years 1992 and 1993, the amount of new budget authority provided in appropriation Acts exceeds the discretionary spending limit on new budget authority for any category due to technical estimates made by the Director of the Office of Management and Budget, the adjustment is the amount of the excess, but not to exceed an amount (for 1992 and 1993 together) equal to 0.042 percent of the sum of the adjusted discretionary limits on new budget authority for all categories for fiscal years 1991, 1992, and 1993 (cumulatively).

"(F) SPECIAL OUTLAY ALLOWANCE.—If in any fiscal year outlays for a category exceed the discretionary spending limit for that category but new budget authority does not exceed its limit for that category (after application of the first step of a sequestration described in subsection (a)(2), if necessary), the adjustment in outlays is the amount of the excess, but not to exceed $2,500,000,000 in the defense category, $1,500,000,000 in the international category, or $2,500,000,000 in the domestic category (as applicable) in fiscal year 1991, 1992, or 1993, and not to exceed $6,500,000,000 in fiscal year 1994 or 1995 less any of the outlay adjustments made under subparagraph (E) for a category for a fiscal year.

"SEC. 252. ENFORCING PAY-AS-YOU-GO.

"(a) FISCAL YEARS 1992-1995 ENFORCEMENT.—The purpose of this section is to assure that any legislation (enacted after the date of enactment of this section) affecting direct spending or receipts that increases the deficit in any fiscal year covered by this Act will trigger an offsetting sequestration.

"(b) SEQUESTRATION; LOOK-BACK.—Within 15 calendar days after Congress adjourns to end a session (other than of the One Hundred First Congress) and on the same day as a sequestration (if any) under section 251 and section 253, there shall be a sequestration to offset the amount of any net deficit increase in that fiscal year and the prior fiscal year caused by all direct spending and receipts legislation enacted after the date of enactment of this section (after adjusting for any prior sequestration as provided by paragraph (2)). OMB shall calculate the amount of deficit increase, if any, in those fiscal years by adding—

"(1) all applicable estimates of direct spending and receipts legislation transmitted under subsection (d) applicable to those fiscal years, other than any amounts included in such estimates resulting from—

"(A) full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment of this section, and

"(B) emergency provisions as designated under subsection (e); and

"(2) the estimated amount of savings in direct spending programs applicable to those fiscal years resulting from the prior year's sequestration under this section or section 253, if any (except for any amounts sequestered as a result of a net deficit increase in the fiscal year immediately preceding the prior fiscal year), as published in OMB's end-of-session sequestration report for that prior year.

"(c) ELIMINATING A DEFICIT INCREASE.—(1) The amount required to be sequestered in a fiscal year under subsection (b) shall be obtained from non-exempt direct spending accounts from actions taken in the following order:

"(A) FIRST.—All reductions in automatic spending increases specified in section 256(a) shall be made.

"(B) SECOND.—If additional reductions in direct spending accounts are required to be made, the maximum reductions permissible under sections 256(b) (guaranteed student loans) and 256(c) (foster care and adoption assistance) shall be made.

"(C) THIRD.—(i) If additional reductions in direct spending accounts are required to be made, each remaining non-exempt direct spending account shall be reduced by the uniform percentage necessary to make the reductions in direct spending required by paragraph (1); except that the medicare programs specified in section 256(d) shall not be reduced by more than 4 percent and the uniform percentage applicable to all other direct spending programs under this paragraph shall be increased (if necessary) to a level sufficient to achieve the required reduction in direct spending.

"(ii) For purposes of determining reductions under clause (i), outlay reductions (as a result of sequestration of Commodity Credit Corporation commodity price support contracts in the fiscal year of a sequestration) that would occur in the following fiscal year shall be credited as outlay reductions in the fiscal year of the sequestration.

"(2) For purposes of this subsection, accounts shall be assumed to be at the level in the baseline.

"(d) OMB ESTIMATES.—As soon as practicable after Congress completes action on any direct spending or receipts legislation enacted after the date of enactment of this section, after consultation with the Committees on the Budget of the House of Representatives and the Senate, CBO shall provide OMB with an estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from that legislation. Within 5 calendar days after the enactment of any direct spending or receipts legislation enacted after the date of enactment of this section, OMB shall transmit a report to the House of Representatives and to the Senate containing such CBO estimate of that legislation, an OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from that legislation, and an explanation of any difference between the two estimates. Those OMB estimates shall be made using current economic and technical assumptions. OMB and CBO shall prepare estimates under this paragraph in conformance with scorekeep-

ing guidelines determined after consultation among the House and Senate Committees on the Budget, CBO, and OMB.

"(e) EMERGENCY LEGISLATION.—If, for fiscal year 1991, 1992, 1993, 1994, or 1995, a provision of direct spending or receipts legislation is enacted that the President designates as an emergency requirement and that the Congress so designates in statute, the amounts of new budget authority, outlays, and receipts in all fiscal years through 1995 resulting from that provision shall be designated as an emergency requirement in the reports required under subsection (d).

"SEC. 253. ENFORCING DEFICIT TARGETS.

"(a) SEQUESTRATION.—Within 15 calendar days after Congress adjourns to end a session (other than of the One Hundred First Congress) and on the same day as a sequestration (if any) under section 251 and section 252, but after any sequestration required by section 251 (enforcing discretionary spending limits) or section 252 (enforcing pay-as-you-go), there shall be a sequestration to eliminate the excess deficit (if any remains) if it exceeds the margin.

"(b) EXCESS DEFICIT; MARGIN.—The excess deficit is, if greater than zero, the estimated deficit for the budget year, minus—

"(1) the maximum deficit amount for that year;

"(2) the amounts for that year designated as emergency direct spending or receipts legislation under section 252(e); and

"(3) for any fiscal year in which there is not a full adjustment for technical and economic reestimates, the deposit insurance reestimate for that year, if any, calculated under subsection (h).

The 'margin' for fiscal year 1992 or 1993 is zero and for fiscal year 1994 or 1995 is $15,000,000,000.

"(c) DIVIDING THE SEQUESTRATION.—To eliminate the excess deficit in a budget year, half of the required outlay reductions shall be obtained from non-exempt defense accounts (accounts designated as function 050 in the President's fiscal year 1991 budget submission) and half from non-exempt, non-defense accounts (all other non-exempt accounts).

"(d) DEFENSE.—Each non-exempt defense account shall be reduced by a dollar amount calculated by multiplying the level of sequestrable budgetary resources in that account at that time by the uniform percentage necessary to carry out subsection (c), except that, if any military personnel are exempt, adjustments shall be made under the procedure set forth in section 251(a)(3).

"(e) NON-DEFENSE.—Actions to reduce non-defense accounts shall be taken in the following order:

"(1) FIRST.—All reductions in automatic spending increases under section 256(a) shall be made.

"(2) SECOND.—If additional reductions in non-defense accounts are required to be made, the maximum reduction permissible under sections 256(b) (guaranteed student loans) and 256(c) (foster care and adoption assistance) shall be made.

"(3) THIRD.—(A) If additional reductions in non-defense accounts are required to be made, each remaining non-exempt, non-defense account shall be reduced by the uniform percentage necessary to make the reductions in non-defense outlays required by subsection (c), except that—

"(i) the medicare program specified in section 256(d) shall not be reduced by more than 2 percent in total including any reduction of less than 2 percent made under section 252 or, if it has been reduced by 2 percent or more under section 252, it may not be further reduced under this section; and

"(ii) the health programs set forth in section 256(e) shall not be reduced by more than 2 percent in total (including any reduction made under section 251),

and the uniform percent applicable to all other programs under this subsection shall be increased (if necessary) to a level sufficient to achieve the required reduction in non-defense outlays.

"(B) For purposes of determining reductions under subparagraph (A), outlay reduction (as a result of sequestration of Commodity Credit Corporation commodity price support contracts in the fiscal year of a sequestration) that would occur in the following fiscal year shall be credited as outlay reductions in the fiscal year of the sequestration.

"(f) BASELINE ASSUMPTIONS; PART-YEAR APPROPRIATIONS.—

"(1) BUDGET ASSUMPTIONS.—For purposes of subsections (b), (c), (d), and (e), accounts shall be assumed to be at the level in the baseline minus any reductions required to be made under sections 251 and 252.

"(2) PART-YEAR APPROPRIATIONS.—If, on the date specified in subsection (a), there is in effect an Act making or continuing appropriations for part of a fiscal year for any non-exempt budget account, then the dollar sequestration calculated for that account under subsection (d) or (e), as applicable, shall be subtracted from—

"(A) the annualized amount otherwise available by law in that account under that or a subsequent part-year appropriation; and

"(B) when a full-year appropriation for that account is enacted, from the amount otherwise provided by the full-year appropriation; except that the amount to be sequestered from that account shall be reduced (but not below zero) by the savings achieved by that appropriation when the enacted amount is less than the baseline for that account.

"(g) ADJUSTMENTS TO MAXIMUM DEFICIT AMOUNTS.—

"(1) ADJUSTMENTS.—

"(A) When the President submits the budget for fiscal year 1992, the maximum deficit amounts for fiscal years 1992, 1993, 1994, and 1995 shall be adjusted to reflect up-to-date reestimates of economic and technical assumptions and any changes in concepts or definitions. When the President submits the budget for fiscal year 1993, the maximum deficit amounts for fiscal years 1993, 1994, and 1995 shall be further adjusted to reflect up-to-date reestimates of economic and technical assumptions and any changes in concepts or definitions.

"(B) When submitting the budget for fiscal year 1994, the President may choose to adjust the maximum deficit amounts for fiscal years 1994 and 1995 to reflect up-to-date

reestimates of economic and technical assumptions. If the President chooses to adjust the maximum deficit amount when submitting the fiscal year 1994 budget, the President may choose to invoke the same adjustment procedure when submitting the budget for fiscal year 1995. In each case, the President must choose between making no adjustment or the full adjustment described in paragraph (2). If the President chooses to make that full adjustment, then those procedures for adjusting discretionary spending limits described in sections 251(b)(1)(C) and 251(b)(2)(E), otherwise applicable through fiscal year 1993 or 1994 (as the case may be), shall be deemed to apply for fiscal year 1994 (and 1995 if applicable).

"(C) When the budget for fiscal year 1994 or 1995 is submitted and the sequestration reports for those years under section 254 are made (as applicable), if the President does not choose to make the adjustments set forth in subparagraph (B), the maximum deficit amount for that fiscal year shall be adjusted by the amount of the adjustment to discretionary spending limits first applicable for that year (if any) under section 251(b).

"(D) For each fiscal year the adjustments required to be made with the submission of the President's budget for that year shall also be made when OMB submits the sequestration update report and the final sequestration report for that year, but OMB shall continue to use the economic and technical assumptions in the President's budget for that year.

Each adjustment shall be made by increasing or decreasing the maximum deficit amounts set forth in section 601 of the Congressional Budget Act of 1974.

"(2) CALCULATIONS OF ADJUSTMENTS.—The required increase or decrease shall be calculated as follows:

"(A) The baseline deficit or surplus shall be calculated using up-to-date economic and technical assumptions, using up-to-date concepts and definitions, and, in lieu of the baseline levels of discretionary appropriations, using the discretionary spending limits set forth in section 601 of the Congressional Budget Act of 1974 as adjusted under section 251.

"(B) The net deficit increase or decrease caused by all direct spending and receipts legislation enacted after the date of enactment of this section (after adjusting for any sequestration of direct spending accounts) shall be calculated for each fiscal year by adding—

"(i) the estimates of direct spending and receipts legislation transmitted under section 252(d) applicable to each such fiscal year; and

"(ii) the estimated amount of savings in direct spending programs applicable to each such fiscal year resulting from the prior year's sequestration under this section or section 252 of direct spending, if any, as con-

tained in OMB's final sequestration report for that year.

"(C) The amount calculated under subparagraph (B) shall be subtracted from the amount calculated under subparagraph (A).

"(D) The maximum deficit amount set forth in section 601 of the Congressional Budget Act of 1974 shall be subtracted from the amount calculated under subparagraph (C).

"(E) The amount calculated under subparagraph (D) shall be the amount of the adjustment required by paragraph (1).

"(h) TREATMENT OF DEPOSIT INSURANCE.—

"(1) INITIAL ESTIMATES.—The initial estimates of the net costs of federal deposit insurance for fiscal year 1994 and fiscal year 1995 (assuming full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of the submission of the budget for fiscal year 1993) shall be set forth in that budget.

"(2) REESTIMATES.—For fiscal year 1994 and fiscal year 1995, the amount of the reestimate of deposit insurance costs shall be calculated by subtracting the amount set forth under paragraph (1) for that year from the current estimate of deposit insurance costs (but assuming full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of submission of the budget for fiscal year 1993).

"SEC. 254. REPORTS AND ORDERS.

"(a) TIMETABLE.—The timetable with respect to this part for any budget year is as follows:

"Date:	*Action to be completed:*
January 21	*Notification regarding optional adjustment of maximum deficit amount.*
5 days before the President's budget submission.	*CBO sequestration preview report.*
The President's budget submission	*OMB sequestration preview report.*
August 10	*Notification regarding military personnel.*
August 15	*CBO sequestration update report.*
August 20	*OMB sequestration update report.*
10 days after end of session	*CBO final sequestration report.*
15 days after end of session	*OMB final sequestration report; Presidential order.*
30 days later	*GAO compliance report.*

"(b) SUBMISSION AND AVAILABILITY OF REPORTS.—Each report required by this section shall be submitted, in the case of CBO, to the House of Representatives, the Senate and OMB and, in the case of OMB, to the House of Representatives, the Senate, and the President on the day it is issued. On the following day a notice of the report shall be printed in the Federal Register.

"(c) OPTIONAL ADJUSTMENT OF MAXIMUM DEFICIT AMOUNTS.—With respect to budget year 1994 or 1995, on the date specified in subsection (a) the President shall notify the House of Representatives and the Senate of his decision regarding the optional adjustment of the maximum deficit amount (as allowed under section 253(g)(1)(B)).

"(d) SEQUESTRATION PREVIEW REPORTS.—

"(1) REPORTING REQUIREMENT.—On the dates specified in subsection (a), OMB and CBO shall issue a preview report regarding discretionary, pay-as-you-go, and deficit sequestration based on laws enacted through those dates.

"(2) DISCRETIONARY SEQUESTRATION REPORT.—The preview reports shall set forth estimates for the current year and each subsequent year through 1995 of the applicable discretionary spending limits for each category and an explanation of any adjustments in such limits under section 251.

"(3) PAY-AS-YOU-GO SEQUESTRATION REPORTS.—The preview reports shall set forth, for the current year and the budget year, estimates for each of the following:

"(A) The amount of net deficit increase or decrease, if any, calculated under subsection 252(b).

"(B) A list identifying each law enacted and sequestration implemented after the date of enactment of this section included in the calculation of the amount of deficit increase or decrease and specifying the budgetary effect of each such law.

"(C) The sequestration percentage or (if the required sequestration percentage is greater than the maximum allowable percentage for medicare) percentages necessary to eliminate a deficit increase under section 252(c).

"(4) DEFICIT SEQUESTRATION REPORTS.—The preview reports shall set forth for the budget year estimates for each of the following:

"(A) The maximum deficit amount, the estimated deficit calculated under section 253(b), the excess deficit, and the margin.

"(B) The amount of reductions required under section 252, the excess deficit remaining after those reductions have been made, and the amount of reductions required from defense accounts and the reductions required from non-defense accounts.

"(C) The sequestration percentage necessary to achieve the required reduction in defense accounts under section 253(d).

"(D) The reductions required under sections 253(e)(1) and 253(e)(2).

"(E) The sequestration percentage necessary to achieve the required reduction in non-defense accounts under section 253(e)(3).

The CBO report need not set forth the items other than the maximum deficit amount for fiscal year 1992, 1993, or any fiscal year for which the President notifies the House of Representatives and the Senate that he will adjust the maximum deficit amount under the option under section 253(g)(1)(B).

"(5) EXPLANATION OF DIFFERENCES.—The OMB reports shall explain the differences between OMB and CBO estimates for each item set forth in this subsection.

"(e) NOTIFICATION REGARDING MILITARY PERSONNEL.—On or before the date specified in subsection (a), the President shall notify

the Congress of the manner in which he intends to exercise flexibility with respect to military personnel accounts under section 255(h).

"(f) SEQUESTRATION UPDATE REPORTS.—On the dates specified in subsection (a), OMB and CBO shall issue a sequestration update report, reflecting laws enacted through those dates, containing all of the information required in the sequestration preview reports.

"(g) FINAL SEQUESTRATION REPORTS.—

"(1) REPORTING REQUIREMENT.—On the dates specified in subsection (a), OMB and CBO shall issue a final sequestration report, updated to reflect laws enacted through those dates.

"(2) DISCRETIONARY SEQUESTRATION REPORTS.—The final reports shall set forth estimates for each of the following:

"(A) For the current year and each subsequent year through 1995 the applicable discretionary spending limits for each category and an explanation of any adjustments in such limits under section 251.

"(B) For the current year and the budget year the estimated new budget authority and outlays for each category and the breach, if any, in each category.

"(C) For each category for which a sequestration is required, the sequestration percentages necessary to achieve the required reduction.

"(D) For the budget year, for each account to be sequestered, estimates of the baseline level of sequestrable budgetary resources and resulting outlays and the amount of budgetary resources to be sequestered and resulting outlay reductions.

"(3) PAY-AS-YOU-GO AND DEFICIT SEQUESTRATION REPORTS.—The final reports shall contain all the information required in the pay-as-you-go and deficit sequestration preview reports. In addition, these reports shall contain, for the budget year, for each account to be sequestered, estimates of the baseline level of sequestrable budgetary resources and resulting outlays and the amount of budgetary resources to be sequestered and resulting outlay reductions. The reports shall also contain estimates of the effects on outlays of the sequestration in each outyear through 1995 for direct spending programs.

"(4) EXPLANATION OF DIFFERENCES.—The OMB report shall explain any differences between OMB and CBO estimates of the amount of any net deficit change calculated under subsection 252(b), any excess deficit, any breach, and any required sequestration percentage. The OMB report shall also explain differences in the amount of sequesterable resources for any budget account to be reduced if such difference is greater than $5,000,000.

"(5) PRESIDENTIAL ORDER.—On the date specified in subsection (a), if in its final sequestration report OMB estimates that any sequestration is required, the President shall issue an order fully implementing without change all sequestrations required by the OMB calculations set forth in that report. This order shall be effective on issuance.

"(h) WITHIN-SESSION SEQUESTRATION REPORTS AND ORDER.—If an appropriation for a fiscal year in progress is enacted (after Congress adjourns to end the session for that budget year and before July 1 of

that fiscal year) that causes a breach, 10 days later CBO shall issue a report containing the information required in paragraph (g)(2). Fifteen days after enactment, OMB shall issue a report containing the information required in paragraphs (g)(2) and (g)(4). On the same day as the OMB report, the President shall issue an order fully implementing without change all sequestrations required by the OMB calculations set forth in that report. This order shall be effective on issuance.

"(i) GAO COMPLIANCE REPORT.—On the date specified in subsection (a), the Comptroller General shall submit to the Congress and the President a report on—

"(1) the extent to which each order issued by the President under this section complies with all of the requirements contained in this part, either certifying that the order fully and accurately complies with such requirements or indicating the respects in which it does not; and

"(2) the extent to which each report issued by OMB or CBO under this section complies with all of the requirements contained in this part, either certifying that the report fully and accurately complies with such requirements or indicating the respects in which it does not.

"(j) LOW-GROWTH REPORT.—At any time, CBO shall notify the Congress if—

"(1) during the period consisting of the quarter during which such notification is given, the quarter preceding such notification, and the 4 quarters following such notification, CBO or OMB has determined that real economic growth is projected or estimated to be less than zero with respect to each of any 2 consecutive quarters within such period; or

"(2) the most recent of the Department of Commerce's advance preliminary or final reports of actual real economic growth indicate that the rate of real economic growth for each of the most recently reported quarter and the immediately preceding quarter is less than one percent.

"(k) ECONOMIC AND TECHNICAL ASSUMPTIONS.—In all reports required by this section, OMB shall use the same economic and technical assumptions as used in the most recent budget submitted by the President under section 1105(a) of title 31, United States Code.".

(b) SECTION 250: DEFINITIONS.—Paragraph (12) of section 257 of such Act (as in effect immediately before the date of enactment of this Act) is redesignated as a new paragraph (21) of section 250(c).

(c) SECTION 255: EXEMPT PROGRAMS AND ACTIVITIES.—

(1) Section 255(a) of such Act is amended to read as follows:

"(a) SOCIAL SECURITY BENEFITS AND TIER I RAILROAD RETIREMENT BENEFITS.—Benefits payable under the old-age, survivors, and disability insurance program established under title II of the Social Security Act, and benefits payable under section 3(a), 3(f)(3), 4(a), or 4(f) of the Railroad Retirement Act of 1974, shall be exempt from reduction under any order issued under this part.".

(2) Section 255(e) of such Act is amended to read as follows:

"(e) NON-DEFENSE UNOBLIGATED BALANCES.—Unobligated balances of budget authority carried over from prior fiscal years, except balances in the defense category, shall be exempt from reduction under any order issued under this part.".

(3) Section 255(g)(1)(B) of such Act is amended by inserting after the item relating to Railroad retirement tier II the following:

"Railroad supplemental annuity pension fund (60–8012–0–7–602);".

(4) Section 255 of such Act is amended by inserting at the end the following:

"(h) 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 initial snapshot date for the budget year.".

(d) SECTION 256: EXCEPTIONS, LIMITATIONS, AND SPECIAL RULES.—

(1) Section 256(a) of such Act is amended to read as follows:

"(a) AUTOMATIC SPENDING INCREASES.—Automatic spending increases are increases in outlays due to changes in indexes in the following programs:

"(1) National Wool Act;

"(2) Special milk program; and

"(3) Vocational rehabilitation basic State grants.

In those programs all amounts other than the automatic spending increases shall be exempt from reduction under any order issued under this part.".

(2) Section 256 of such Act is amended by redesignating subsection (b) as subsection (h), subsection (c) as subsection (b), subsection (e) as subsection (f), subsection (f) as subsection (c), subsection (h) as subsection (i), and subsection (k) as subsection (e), by repealing subsections (i) and (l), and by inserting at the end the following:

"(k) SPECIAL RULES FOR THE JOBS PORTION OF AFDC.—

"(1) FULL AMOUNT OF SEQUESTRATION REQUIRED.—Any order issued by the President under section 254 shall accomplish the full amount of any required sequestration of the job opportunities and basic skills training program under section 402(a)(19), and part F of title VI, of the Social Security Act, in the manner specified in this subsection. Such an order may not reduce any Federal matching rate pursuant to section 403(l) of the Social Security Act.

"(2) NEW ALLOTMENT FORMULA.—

"(A) GENERAL RULE.—Notwithstanding section 403(k) of the Social Security Act, each State's percentage share of the amount available after sequestration for direct spending pursuant to section 403(l) of such Act for the fiscal year to which the sequestration applies shall be equal to—

"(i) the lesser of—

"(I) that percentage of the total amount paid to the States pursuant to such section 403(l) for the prior fiscal year that is represented by the amount

paid to such State pursuant to such section 403(l) for the prior fiscal year; or

"(II) the amount that would have been allotted to such State pursuant to such section 403(k) had the sequestration not been in effect.

"(B) REALLOTMENT OF AMOUNTS REMAINING UNALLOTTED AFTER APPLICATION OF GENERAL RULE.—Any amount made available after sequestration for direct spending pursuant to section 403(l) of the Social Security Act for the fiscal year to which the sequestration applies that remains unallotted as a result of subparagraph (A) of this paragraph shall be allotted among the States in proportion to the absolute difference between the amount allotted, respectively, to each State as a result of such subparagraph and the amount that would have been allotted to such State pursuant to section 403(k) of such Act had the sequestration not been in effect, except that a State may not be allotted an amount under this subparagraph that results in a total allotment to the State under this paragraph of more than the amount that would have been allotted to such State pursuant to such section 403(k) had the sequestration not been in effect.

"(l) EFFECTS OF SEQUESTRATION.—The effects of sequestration shall be as follows:

"(1) Budgetary resources sequestered from any account other than a trust or special fund account shall be permanently cancelled.

"(2) Except as otherwise provided, the same percentage sequestration shall apply to all programs, projects, and activities within a budget account (with programs, projects, and activities as delineated in the appropriation Act or accompanying report for the relevant fiscal year covering that account, or for accounts not included in appropriation Acts, as delineated in the most recently submitted President's budget).

"(3) Administrative regulations or similar actions implementing a sequestration shall be made within 120 days of the sequestration order. To the extent that formula allocations differ at different levels of budgetary resources within an account, program, project, or activity, the sequestration shall be interpreted as producing a lower total appropriation, with the remaining amount of the appropriation being obligated in a manner consistent with program allocation formulas in substantive law.

"(4) Except as otherwise provided, obligations in sequestered accounts shall be reduced only in the fiscal year in which a sequester occurs.

"(5) If an automatic spending increase is sequestered, the increase (in the applicable index) that was disregarded as a result of that sequestration shall not be taken into account in any subsequent fiscal year.

"(6) Except as otherwise provided, sequestration in trust and special fund accounts for which obligations are indefinite shall be taken in a manner to ensure that obligations in the fiscal year of a sequestration are reduced, from the level that would

actually have occurred, by the applicable sequestration percentage.".

(3) Section 256 of such Act is amended by striking "section 252" each place it appears and by inserting "section 254".

(4) Section 256(c) (as redesignated) of such Act is amended by inserting after the first sentence the following: "No State's matching payments from the Federal Government for foster care maintenance payments or for adoption assistance maintenance payments may be reduced by a percentage exceeding the applicable domestic sequestration percentage.".

(5) Section 256(d)(1) of such Act is amended to read as follows:

"(1) CALCULATION OF REDUCTION IN INDIVIDUAL PAYMENT AMOUNTS.—To achieve the total percentage reduction in those programs required by sections 252 and 253, and notwithstanding section 710 of the Social Security Act, OMB shall determine, and the applicable Presidential order under section 254 shall implement, the percentage reduction that shall apply to payments under the health insurance programs under title XVIII of the Social Security Act for services furnished after the order is issued, such that the reduction made in payments under that order shall achieve the required total percentage reduction in those payments for that fiscal year as determined on a 12-month basis.".

(6) Section 256(d)(2)(C) of such Act is repealed.

(e) THE BASELINE.—(1) Section 257 of such Act is amended to read as follows:

"SEC. 257. THE BASELINE.

"(a) IN GENERAL.—For any budget year, the baseline refers to a projection of current-year levels of new budget authority, outlays, revenues, and the surplus or deficit into the budget year and the outyears based on laws enacted through the applicable date.

"(b) DIRECT SPENDING AND RECEIPTS.—For the budget year and each outyear, the baseline shall be calculated using the following assumptions:

"(1) IN GENERAL.—Laws providing or creating direct spending and receipts are assumed to operate in the manner specified in those laws for each such year and funding for entitlement authority is assumed to be adequate to make all payments required by those laws.

"(2) EXCEPTIONS.—(A) No program with estimated current-year outlays greater than $50 million shall be assumed to expire in the budget year or outyears.

"(B) The increase for veterans' compensation for a fiscal year is assumed to be the same as that required by law for veterans' pensions unless otherwise provided by law enacted in that session.

"(C) Excise taxes dedicated to a trust fund, if expiring, are assumed to be extended at current rates.

"(3) HOSPITAL INSURANCE TRUST FUND.—Notwithstanding any other provision of law, the receipts and disbursements of the Hospital Insurance Trust Fund shall be included in all calculations required by this Act.

"(c) Discretionary Appropriations.—For the budget year and each outyear, the baseline shall be calculated using the following assumptions regarding all amounts other than those covered by subsection (b):

"(1) Inflation of current-year appropriations.—Budgetary resources other than unobligated balances shall be at the level provided for the budget year in full-year appropriation Acts. If for any account a full-year appropriation has not yet been enacted, budgetary resources other than unobligated balances shall be at the level available in the current year, adjusted sequentially and cumulatively for expiring housing contracts as specified in paragraph (2), for social insurance administrative expenses as specified in paragraph (3), to offset pay absorption and for pay annualization as specified in paragraph (4), for inflation as specified in paragraph (5), and to account for changes required by law in the level of agency payments for personnel benefits other than pay.

"(2) Expiring housing contracts.—New budget authority to renew expiring multiyear subsidized housing contracts shall be adjusted to reflect the difference in the number of such contracts that are scheduled to expire in that fiscal year and the number expiring in the current year, with the per-contract renewal cost equal to the average current-year cost of renewal contracts.

"(3) Social insurance administrative expenses.—Budgetary resources for the administrative expenses of the following trust funds shall be adjusted by the percentage change in the beneficiary population from the current year to that fiscal year: the Federal Hospital Insurance Trust Fund, the Supplementary Medical Insurance Trust Fund, the Unemployment Trust Fund, and the railroad retirement account.

"(4) Pay annualization; offset to pay absorption.—Current-year new budget authority for Federal employees shall be adjusted to reflect the full 12-month costs (without absorption) of any pay adjustment that occurred in that fiscal year.

"(5) Inflators.—The inflator used in paragraph (1) to adjust budgetary resources relating to personnel shall be the percent by which the average of the Bureau of Labor Statistics Employment Cost Index (wages and salaries, private industry workers) for that fiscal year differs from such index for the current year. The inflator used in paragraph (1) to adjust all other budgetary resources shall be the percent by which the average of the estimated gross national product fixed-weight price index for that fiscal year differs from the average of such estimated index for the current year.

"(6) Current-year appropriations.—If, for any account, a continuing appropriation is in effect for less than the entire current year, then the current-year amount shall be assumed to equal the amount that would be available if that continuing appropriation covered the entire fiscal year. If law permits the transfer of budget authority among budget accounts in the current year, the current-year level for an account shall reflect transfers accomplished by the submission of, or assumed for the

current year in, the President's original budget for the budget year.

"(d) UP-TO-DATE CONCEPTS.—In deriving the baseline for any budget year or outyear, current-year amounts shall be calculated using the concepts and definitions that are required for that budget year.".

(2) Section 251(a)(6)(I) of such Act (as in effect immediately before the date of enactment of this Act) is redesignated as section 257(e) of such Act. Section 257(e) is amended by striking "assuming, for purposes of this paragraph and subparagraph (A)(i) of paragraph (3), that the" and inserting "The".

(f) Such Act is amended by inserting after section 257 the following:

"SEC. 258. SUSPENSION IN THE EVENT OF WAR OR LOW GROWTH.

"(a) PROCEDURES IN THE EVENT OF A LOW GROWTH REPORT.—

"(1) TRIGGEP.—Whenever CBO issues a low-growth report under section 254(j), the Majority Leader of the House of Representatives may, and the Majority Leader of the Senate shall, introduce a joint resolution (in the form set forth in paragraph (2)) declaring that the conditions specified in section 254(j) are met and suspending the relevant provisions of this title, titles III and VI of the Congressional Budget Act of 1974, and section 1103 of title 31, United States Code.

"(2) FORM OF JOINT RESOLUTION.—

"(A) The matter after the resolving clause in any joint resolution introduced pursuant to paragraph (1) shall be as follows: 'That the Congress declares that the conditions specified in section 254(j) of the Balanced Budget and Emergency Deficit Control Act of 1985 are met, and the implementation of the Congressional Budget and Impoundment Control Act of 1974, chapter 11 of title 31, United States Code, and part C of the Balanced Budget and Emergency Deficit Control Act of 1985 are modified as described in section 258(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.'.

"(B) The title of the joint resolution shall be 'Joint resolution suspending certain provisions of law pursuant to section 258(a)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985.'; and the joint resolution shall not contain any preamble.

"(3) COMMITTEE ACTION.—Each joint resolution introduced pursuant to paragraph (1) shall be referred to the appropriate committees of the House of Representatives or the Committee on the Budget of the Senate, as the case may be; and such Committee shall report the joint resolution to its House without amendment on or before the fifth day on which such House is in session after the date on which the joint resolution is introduced. If the Committee fails to report the joint resolution within the five-day period referred to in the preceding sentence, it shall be automatically discharged from further consideration of the joint resolution, and the joint resolution shall be placed on the appropriate calendar.

"(4) CONSIDERATION OF JOINT RESOLUTION.—

"(A) A vote on final passage of a joint resolution reported to the Senate or discharged pursuant to paragraph (3) shall be taken on or before the close of the fifth calendar day of session after the date on which the joint resolution is reported or after the Committee has been discharged from further consideration of the joint resolution. If prior to the passage by one House of a joint resolution of that House, that House receives the same joint resolution from the other House, then—

"(i) the procedure in that House shall be the same as if no such joint resolution had been received from the other House, but

"(ii) the vote on final passage shall be on the joint resolution of the other House.

When the joint resolution is agreed to, the Clerk of the House of Representatives (in the case of a House joint resolution agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a Senate joint resolution agreed to in the Senate) shall cause the joint resolution to be engrossed, certified, and transmitted to the other House of the Congress as soon as practicable.

"(B)(i) In the Senate, a joint resolution under this paragraph shall be privileged. It shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(ii) Debate in the Senate on a joint resolution under this paragraph, and all debatable motions and appeals in connection therewith, shall be limited to not more than five hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(iii) Debate in the Senate on any debatable motion or appeal in connection with a joint resolution under this paragraph shall be limited to not more than one hour, to be equally divided between, and controlled by, the mover and the manager of the joint resolution, except that in the event the manager of the joint resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.

"(iv) A motion in the Senate to further limit debate on a joint resolution under this paragraph is not debatable. A motion to table or to recommit a joint resolution under this paragraph is not in order.

"(C) No amendment to a joint resolution considered under this paragraph shall be in order in the Senate.

"(b) SUSPENSION OF SEQUESTRATION PROCEDURES.—Upon the enactment of a declaration of war or a joint resolution described in subsection (a)—

"(1) the subsequent issuance of any sequestration report or any sequestration order is precluded;

"(2) sections 302(f), 310(d), 311(a), and title VI of the Congressional Budget Act of 1974 are suspended; and

"(3) section 1103 of title 31, United States Code, is suspended.

"(c) RESTORATION OF SEQUESTRATION PROCEDURES.—

"(1) In the event of a suspension of sequestration procedures due to a declaration of war, then, effective with the first fiscal year that begins in the session after the state of war is concluded by Senate ratification of the necessary treaties, the provisions of subsection (b) triggered by that declaration of war are no longer effective.

"(2) In the event of a suspension of sequestration procedures due to the enactment of a joint resolution described in subsection (a), then, effective with regard to the first fiscal year beginning at least 12 months after the enactment of that resolution, the provisions of subsection (b) triggered by that resolution are no longer effective.

"SEC. 258A. MODIFICATION OF PRESIDENTIAL ORDER.

"(a) INTRODUCTION OF JOINT RESOLUTION.—At any time after the Director of OMB issues a final sequestration report under section 254 for a fiscal year, but before the close of the twentieth calendar day of the session of Congress beginning after the date of issuance of such report, the majority leader of either House of Congress may introduce a joint resolution which contains provisions directing the President to modify the most recent order issued under section 254 or provide an alternative to reduce the deficit for such fiscal year. After the introduction of the first such joint resolution in either House of Congress in any calendar year, then no other joint resolution introduced in such House in such calendar year shall be subject to the procedures set forth in this section.

"(b) PROCEDURES FOR CONSIDERATION OF JOINT RESOLUTIONS.—

"(1) REFERRAL TO COMMITTEE.—A joint resolution introduced in the Senate under subsection (a) shall not be referred to a committee of the Senate and shall be placed on the calendar pending disposition of such joint resolution in accordance with this subsection.

"(2) CONSIDERATION IN THE SENATE.—On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution is introduced under subsection (a), notwithstanding any rule or precedent of the Senate, including Rule XXII of the Standing Rules of the Senate, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of the joint resolution. The motion is not in order after the eighth calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution (to which the motion applies) is introduced. The joint resolution is privileged in the Senate. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the Senate shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the joint resolution shall remain the unfinished business of the Senate until disposed of.

"(3) DEBATE IN THE SENATE.—

"(A) In the Senate, debate on a joint resolution introduced under subsection (a), amendments thereto, and all

debatable motions and appeals in connection therewith shall be limited to not more than 10 hours, which shall be divided equally between the majority leader and the minority leader (or their designees).

"(B) A motion to postpone, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order, and a motion to recommit the joint resolution is not in order.

"(C)(i) No amendment that is not germane to the provisions of the joint resolution or to the order issued under section 254 shall be in order in the Senate. In the Senate, an amendment, any amendment to an amendment, or any debatable motion or appeal is debatable for not to exceed 30 minutes to be equally divided between, and controlled by, the mover and the majority leader (or their designees), except that in the event that the majority leader favors the amendment, motion, or appeal, the minority leader (or the minority leader's designee) shall control the time in opposition to the amendment, motion, or appeal.

"(ii) In the Senate, an amendment that is otherwise in order shall be in order notwithstanding the fact that it amends the joint resolution in more than one place or amends language previously amended. It shall not be in order in the Senate to vote on the question of agreeing to such a joint resolution or any amendment thereto unless the figures then contained in such joint resolution or amendment are mathematically consistent.

"(4) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on a joint resolution introduced under subsection (a), a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, and the disposition of any pending amendments under paragraph (3), the vote on final passage of the joint resolution shall occur.

"(5) APPEALS.—Appeals from the decisions of the Chair shall be decided without debate.

"(6) CONFERENCE REPORTS.—In the Senate, points of order under titles III, IV, and VI of the Congressional Budget Act of 1974 are applicable to a conference report on the joint resolution or any amendments in disagreement thereto.

"(7) RESOLUTION FROM OTHER HOUSE.—If, before the passage by the Senate of a joint resolution of the Senate introduced under subsection (a), the Senate receives from the House of Representatives a joint resolution introduced under subsection (a), then the following procedures shall apply:

"(A) The joint resolution of the House of Representatives shall not be referred to a committee and shall be placed on the calendar.

"(B) With respect to a joint resolution introduced under subsection (a) in the Senate—

"(i) the procedure in the Senate shall be the same as if no joint resolution had been received from the House; but

"(ii)(I) the vote on final passage shall be on the joint resolution of the House if it is identical to the joint resolution then pending for passage in the Senate; or

"(II) if the joint resolution from the House is not identical to the joint resolution then pending for passage in the Senate and the Senate then passes the Senate joint resolution, the Senate shall be considered to have passed the House joint resolution as amended by the text of the Senate joint resolution.

"(C) Upon disposition of the joint resolution received from the House, it shall no longer be in order to consider the resolution originated in the Senate.

"(8) SENATE ACTION ON HOUSE RESOLUTION.—If the Senate receives from the House of Representatives a joint resolution introduced under subsection (a) after the Senate has disposed of a Senate originated resolution which is identical to the House passed joint resolution, the action of the Senate with regard to the disposition of the Senate originated joint resolution shall be deemed to be the action of the Senate with regard to the House originated joint resolution. If it is not identical to the House passed joint resolution, then the Senate shall be considered to have passed the joint resolution of the House as amended by the text of the Senate joint resolution.".

(g) Such Act is amended by inserting after section 258A the following:

"SEC. 258B. FLEXIBILITY AMONG DEFENSE PROGRAMS, PROJECTS, AND ACTIVITIES.

"(a) Subject to subsections (b), (c), and (d), new budget authority and unobligated balances for any programs, projects, or activities within major functional category 050 (other than a military personnel account) may be further reduced beyond the amount specified in an order issued by the President under section 254 for such fiscal year. To the extent such additional reductions are made and result in additional outlay reductions, the President may provide for lesser reductions in new budget authority and unobligated balances for other programs, projects, or activities within major functional category 050 for such fiscal year, but only to the extent that the resulting outlay increases do not exceed the additional outlay reductions, and no such program, project, or activity may be increased above the level actually made available by law in appropriation Acts (before taking sequestration into account). In making calculations under this subsection, the President shall use account outlay rates that are identical to those used in the report by the Director of OMB under section 254.

"(b) No actions taken by the President under subsection (a) for a fiscal year may result in a domestic base closure or realignment that would otherwise be subject to section 2687 of title 10, United States Code.

"(c) The President may not exercise the authority provided by this paragraph for a fiscal year unless—

"(1) the President submits a single report to Congress specifying, for each account, the detailed changes proposed to be made for such fiscal year pursuant to this section;

"(2) that report is submitted within 5 calendar days of the start of the next session of Congress; and

"(3) a joint resolution affirming or modifying the changes proposed by the President pursuant to this paragraph becomes law.

"(d) Within 5 calendar days of session after the President submits a report to Congress under subsection (c)(1) for a fiscal year, the majority leader of each House of Congress shall (by request) introduce a joint resolution which contains provisions affirming the changes proposed by the President pursuant to this paragraph.

"(e)(1) The matter after the resolving clause in any joint resolution introduced pursuant to subsection (d) shall be as follows: 'That the report of the President as submitted on [Insert Date] under section 258B is hereby approved.'.

"(2) The title of the joint resolution shall be 'Joint resolution approving the report of the President submitted under section 258B of the Balanced Budget and Emergency Deficit Control Act of 1985.'.

"(3) Such joint resolution shall not contain any preamble.

"(f)(1) A joint resolution introduced in the Senate under subsection (d) shall be referred to the Committee on Appropriations, and if not reported within 5 calendar days (excluding Saturdays, Sundays, and legal holidays) from the date of introduction shall be considered as having been discharged therefrom and shall be placed on the appropriate calendar pending disposition of such joint resolution in accordance with this subsection. In the Senate, no amendment proposed in the Committee on Appropriations shall be in order other than an amendment (in the nature of a substitute) that is germane or relevant to the provisions of the joint resolution or to the order issued under section 254. For purposes of this paragraph, an amendment shall be considered to be relevant if it relates to function 050 (national defense).

"(2) On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution is placed on the Senate calendar, notwithstanding any rule or precedent of the Senate, including Rule XXII of the Standing Rules of the Senate, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of the joint resolution. The motion is not in order after the eighth calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after such joint resolution is placed on the appropriate calendar. The motion is not debatable. The joint resolution is privileged in the Senate. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the Senate shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the joint resolution shall remain the unfinished business of the Senate until disposed of.

"(g)(1) In the Senate, debate on a joint resolution introduced under subsection (d), amendments thereto, and all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours, which shall be divided equally between the majority leader and the minority leader (or their designees).

"(2) A motion to postpone, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order. In the Senate, a motion to recommit the joint resolution is not in order.

"(h)(1) No amendment that is not germane or relevant to the provisions of the joint resolution or to the order issued under section 254 shall be in order in the Senate. For purposes of this paragraph, an amendment shall be considered to be relevant if it relates to function 050 (national defense). In the Senate, an amendment, any amendment to an amendment, or any debatable motion or appeal is debatable for not to exceed 30 minutes to be equally divided between, and controlled by, the mover and the majority leader (or their designees), except that in the event that the majority leader favors the amendment, motion, or appeal, the minority leader (or the minority leader's designee) shall control the time in opposition to the amendment, motion, or appeal.

"(2) In the Senate, an amendment that is otherwise in order shall be in order notwithstanding the fact that it amends the joint resolution in more than one place or amends language previously amended, so long as the amendment makes or maintains mathematical consistency. It shall not be in order in the Senate to vote on the question of agreeing to such a joint resolution or any amendment thereto unless the figures then contained in such joint resolution or amendment are mathematically consistent.

"(3) It shall not be in order in the Senate to consider any amendment to any joint resolution introduced under subsection (d) or any conference report thereon if such amendment or conference report would have the effect of decreasing any specific budget outlay reductions below the level of such outlay reductions provided in such joint resolution unless such amendment or conference report makes a reduction in other specific budget outlays at least equivalent to any increase in outlays provided by such amendment or conference report.

"(4) For purposes of the application of paragraph (3), the level of outlays and specific budget outlay reductions provided in an amendment shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

"(i) Immediately following the conclusion of the debate on a joint resolution introduced under subsection (d), a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, and the disposition of any pending amendments under subsection (h), the vote on final passage of the joint resolution shall occur.

"(j) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a joint resolution described in subsection (d) shall be decided without debate.

"(k) In the Senate, points of order under titles III and IV of the Congressional Budget Act of 1974 (including points of order under sections 302(c), 303(a), 306, and 401(b)(1)) are applicable to a conference report on the joint resolution or any amendments in disagreement thereto.

"(l) If, before the passage by the Senate of a joint resolution of the Senate introduced under subsection (d), the Senate receives from the House of Representatives a joint resolution introduced under subsection (d), then the following procedures shall apply:

"(1) The joint resolution of the House of Representatives shall not be referred to a committee.

"(2) With respect to a joint resolution introduced under subsection (d) in the Senate—

"(A) the procedure in the Senate shall be the same as if no joint resolution had been received from the House; but

"(B)(i) the vote on final passage shall be on the joint resolution of the House if it is identical to the joint resolution then pending for passage in the Senate; or

"(ii) if the joint resolution from the House is not identical to the joint resolution then pending for passage in the Senate and the Senate then passes the Senate joint resolution, the Senate shall be considered to have passed the House joint resolution as amended by the text of the Senate joint resolution.

"(3) Upon disposition of the joint resolution received from the House, it shall no longer be in order to consider the joint resolution originated in the Senate.

"(m) If the Senate receives from the House of Representatives a joint resolution introduced under subsection (d) after the Senate has disposed of a Senate originated joint resolution which is identical to the House passed joint resolution, the action of the Senate with regard to the disposition of the Senate originated joint resolution shall be deemed to be the action of the Senate with regard to the House originated joint resolution. If it is not identical to the House passed joint resolution, then the Senate shall be considered to have passed the joint resolution of the House as amended by the text of the Senate joint resolution.

"SEC. 258C. SPECIAL RECONCILIATION PROCESS.

"(a) REPORTING OF RESOLUTIONS AND RECONCILIATION BILLS AND RESOLUTIONS, IN THE SENATE.—

"(1) COMMITTEE ALTERNATIVES TO PRESIDENTIAL ORDER.— After the submission of an OMB sequestration update report under section 254 that envisions a sequestration under section 252 or 253, each standing committee of the Senate may, not later than October 10, submit to the Committee on the Budget of the Senate information of the type described in section 301(d) of the Congressional Budget Act of 1974 with respect to alternatives to the order envisioned by such report insofar as such order affects laws within the jurisdiction of the committee.

"(2) INITIAL BUDGET COMMITTEE ACTION.—After the submission of such a report, the Committee on the Budget of the Senate may, not later than October 15, report to the Senate a resolution. The resolution may affirm the impact of the order envisioned by such report, in whole or in part. To the extent that any part is not affirmed, the resolution shall state which parts are not affirmed and shall contain instructions to committees of the Senate of the type referred to in section 310(a) of the Congressional Budget Act of 1974, sufficient to achieve at

least the total level of deficit reduction contained in those sections which are not affirmed.

"(3) RESPONSE OF COMMITTEES.—Committees instructed pursuant to paragraph (2), or affected thereby, shall submit their responses to the Budget Committee no later than 10 days after the resolution referred to in paragraph (2) is agreed to, except that if only one such Committee is so instructed such Committee shall, by the same date, report to the Senate a reconciliation bill or reconciliation resolution containing its recommendations in response to such instructions. A committee shall be considered to have complied with all instructions to it pursuant to a resolution adopted under paragraph (2) if it has made recommendations with respect to matters within its jurisdiction which would result in a reduction in the deficit at least equal to the total reduction directed by such instructions.

"(4) BUDGET COMMITTEE ACTION.—Upon receipt of the recommendations received in response to a resolution referred to in paragraph (2), the Budget Committee shall report to the Senate a reconciliation bill or reconciliation resolution, or both, carrying out all such recommendations without any substantive revisions. In the event that a committee instructed in a resolution referred to in paragraph (2) fails to submit any recommendation (or, when only one committee is instructed, fails to report a reconciliation bill or resolution) in response to such instructions, the Budget Committee shall include in the reconciliation bill or reconciliation resolution reported pursuant to this subparagraph legislative language within the jurisdiction of the noncomplying committee to achieve the amount of deficit reduction directed in such instructions.

"(5) POINT OF ORDER.—It shall not be in order in the Senate to consider any reconciliation bill or reconciliation resolution reported under paragraph (4) with respect to a fiscal year, any amendment thereto, or any conference report thereon 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 amount of the deficit for such fiscal year to exceed the maximum deficit amount for such fiscal year, unless the low-growth report submitted under section 254 projects negative real economic growth for such fiscal year, or for each of any two consecutive quarters during such fiscal year.

"(6) TREATMENT OF CERTAIN AMENDMENTS.—In the Senate, an amendment which adds to a resolution reported under paragraph (2) an instruction of the type referred to in such paragraph shall be in order during the consideration of such resolution if such amendment would be in order but for the fact that it would be held to be non-germane on the basis that the instruction constitutes new matter.

"(7) DEFINITION.—For purposes of paragraphs (1), (2), and (3), the term "day" shall mean any calendar day on which the Senate is in session.

"(b) PROCEDURES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), in the Senate the provisions of sections 305 and 310 of the Congressional Budget Act of 1974 for the consideration of concurrent resolutions on the budget and conference reports thereon shall also apply to the consideration of resolutions, and reconciliation bills and reconciliation resolutions reported under this paragraph and conference reports thereon.

"(2) LIMIT ON DEBATE.—Debate in the Senate on any resolution reported pursuant to subsection (a)(2), and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to 10 hours.

"(3) LIMITATION ON AMENDMENTS.—Section 310(d)(2) of the Congressional Budget Act shall apply to reconciliation bills and reconciliation resolutions reported under this subsection.

"(4) BILLS AND RESOLUTIONS RECEIVED FROM THE HOUSE.—Any bill or resolution received in the Senate from the House, which is a companion to a reconciliation bill or reconciliation resolution of the Senate for the purposes of this subsection, shall be considered in the Senate pursuant to the provisions of this subsection.

"(5) DEFINITION.—For purposes of this subsection, the term 'resolution' means a simple, joint, or concurrent resolution.".

PART II—RELATED AMENDMENTS

SEC. 13111. TEMPORARY AMENDMENTS TO THE CONGRESSIONAL BUDGET ACT OF 1974.

Title VI of the Congressional Budget Act of 1974 is amended to read as follows:

"TITLE VI—BUDGET AGREEMENT ENFORCEMENT PROVISIONS

"SEC. 601. DEFINITIONS AND POINT OF ORDER.

"(a) DEFINITIONS.—As used in this title and for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985:

"(1) MAXIMUM DEFICIT AMOUNT.—The term 'maximum deficit amount' means—

"(A) with respect to fiscal year 1991, $327,000,000,000;

"(B) with respect to fiscal year 1992, $317,000,000,000;

"(C) with respect to fiscal year 1993, $236,000,000,000;

"(D) with respect to fiscal year 1994, $102,000,000,000; and

"(E) with respect to fiscal year 1995, $83,000,000,000;

as adjusted in strict conformance with sections 251, 252, and 253 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(2) DISCRETIONARY SPENDING LIMIT.—The term 'discretionary spending limit' means—

"(A) with respect to fiscal year 1991—

"(i) for the defense category: $288,918,000,000 in new budget authority and $297,660,000,000 in outlays;

"(ii) for the international category: $20,100,000,000 in new budget authority and $18,600,000,000 in outlays; and

"(iii) for the domestic category: $182,700,000,000 in new budget authority and $198,100,000,000 in outlays;

"(B) with respect to fiscal year 1992—

"(i) for the defense category: $291,643,000,000 in new budget authority and $295,744,000,000 in outlays;

"(ii) for the international category: $20,500,000,000 in new budget authority and $19,100,000,000 in outlays; and

"(iii) for the domestic category: $191,300,000,000 in new budget authority and $210,100,000,000 in outlays;

"(C) with respect to fiscal year 1993—

"(i) for the defense category: $291,785,000,000 in new budget authority and $292,686,000,000 in outlays;

"(ii) for the international category: $21,400,000,000 in new budget authority and $19,600,000,000 in outlays; and

"(iii) for the domestic category: $198,300,000,000 in new budget authority and $221,700,000,000 in outlays;

"(D) with respect to fiscal year 1994, for the discretionary category: $510,800,000,000 in new budget authority and $534,800,000,000 in outlays; and

"(E) with respect to fiscal year 1995, for the discretionary category: $517,700,000,000 in new budget authority and $540,800,000,000 in outlays;

as adjusted in strict conformance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(b) POINT OF ORDER IN THE SENATE ON AGGREGATE ALLOCATIONS FOR DEFENSE, INTERNATIONAL, AND DOMESTIC DISCRETIONARY SPENDING.—

"(1) Except as provided in paragraph (3), it shall not be in order in the Senate to consider any concurrent resolution on the budget for fiscal year 1992, 1993, 1994, or 1995 (or amendment, motion, or conference report on such a resolution), or any appropriations bill or resolution (or amendment, motion, or conference report on such an appropriations bill or resolution) for fiscal year 1992 or 1993 that would exceed the allocations in this section or the suballocations made under section 602(b) based on these allocations.

"(3) For purposes of this subsection, the levels of new budget authority and outlays for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

"(4) 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.

"SEC. 602. COMMITTEE ALLOCATIONS AND ENFORCEMENT.

"(a) COMMITTEE SPENDING ALLOCATIONS.—

"(1) HOUSE OF REPRESENTATIVES.—

"(A) 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) of—

"(i) total new budget authority,

"(ii) total entitlement authority, and

"(iii) total outlays;

among each committee of the House of Representatives that has jurisdiction over legislation providing or creating such amounts.

"(B) NO DOUBLE COUNTING.—Any item allocated to one committee of the House of Representatives may not be allocated to another such committee.

"(C) FURTHER DIVISION OF AMOUNTS.—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.

"(2) SENATE ALLOCATION AMONG COMMITTEES.—The joint explanatory statement accompanying a conference report on a budget resolution shall include an allocation, consistent with the resolution recommended in the conference report, of the appropriate levels of—

"(A) total new budget authority;

"(B) total outlays; and

"(C) social security outlays;

among each committee of the Senate that has jurisdiction over legislation providing or creating such amounts.

"(3) AMOUNTS NOT ALLOCATED.—(A) In the House of Representatives, if a committee receives no allocation of new budget authority, entitlement authority, or outlays, that committee shall be deemed to have received an allocation equal to zero for new budget authority, entitlement 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.

"(b) SUBALLOCATIONS BY COMMITTEES.—

"(1) SUBALLOCATIONS BY APPROPRIATIONS COMMITTEES.—As soon as practicable after a budget resolution 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)(1)(A) or (a)(2) among its subcommittees. Each Committee on Appropriations shall promptly report to its House suballocations made or revised under this paragraph.

"(2) SUBALLOCATIONS BY OTHER COMMITTEES OF THE SENATE.—Each other committee of the Senate to which an allocation under subsection (a)(2) is made in the joint explanatory statement may subdivide each amount allocated to it under subsection (a) among its subcommittees or among programs over which it has jurisdiction and shall promptly report any such suballocations to the Senate. Section 302(c) shall not apply in the Senate to committees other than the Committee on Appropriations.

"(c) APPLICATION OF SECTION 302(f) TO THIS SECTION.—In fiscal years through 1995, reference in section 302(f) to the appropriate allocation made pursuant to section 302(b) for a fiscal year shall, for purposes of this section, be deemed to be a reference to any allocation made under subsection (a) or any sub-allocation made under subsection (b), as applicable, for the fiscal year of the resolution or for the total of all fiscal years made by the joint explanatory statement accompanying the applicable concurrent resolution on the budget. In the House of Representatives, the preceding sentence shall not apply with respect to fiscal year 1991.

"(d) APPLICATION OF SUBSECTIONS (a) AND (b) TO FISCAL YEARS 1992 TO 1995.—In the case of concurrent resolutions on the budget for fiscal years 1992 through 1995, allocations shall be made under subsection (a) instead of section 302(a) and shall be made under subsection (b) instead of section 302(b). For those fiscal years, all references in sections 302(c), (d), (e), (f), and (g) to section 302(a) shall be deemed to be to subsection (a) (including revisions made under section 604) and all such references to section 302(b) shall be deemed to be to subsection (b) (including revisions made under section 604).".

"(e) PAY-AS-YOU-GO EXCEPTION IN THE HOUSE.—Section 302(f)(1) and, after April 15 of any calendar year section 303(a), shall not apply to any bill, joint resolution, amendment thereto, or conference report thereon if, for each fiscal year covered by the most recently agreed to concurrent resolution on the budget—

"(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 increase the deficit for any such fiscal year, and, if the sum of any revenue increases provided in legislation already enacted during the current session (when added to revenue increases, if any, in excess of any outlay increase provided by the legislation proposed for consideration) is at least as great as the sum of the amount, if any, by which the aggregate level of Federal revenues should be increased as set forth in that concurrent resolution and the amount, if any, by which revenues are to be increased pursuant to pay-as-you-go procedures under section 301(b)(8) if included in that concurrent resolution.

"(2) REVISED ALLOCATIONS.—

"(A) As soon as practicable after Congress agrees to a bill or joint resolution that would have been subject to a point of order under section 302(f)(1) but for the exception provided in paragraph (1), the chairman of the Committee on the Budget of the House of Representatives may file with the

House appropriately revised allocations under section 302(a) and revised functional levels and budget aggregates to reflect that bill.

"(B) such revised allocations, functional levels, and budget aggregates shall be considered for the purposes of this Act as allocations, functional levels, and budget aggregates contained in the most recently agreed to concurrent resolution on the budget.

"SEC. 603. CONSIDERATION OF LEGISLATION BEFORE ADOPTION OF BUDGET RESOLUTION FOR THAT FISCAL YEAR.

"(a) ADJUSTING SECTION ALLOCATION OF DISCRETIONARY SPENDING.—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, a section 602(a) allocation to the Committee on Appropriations consistent with the discretionary spending limits contained in the most recent budget submitted by the President under section 1105(a) of title 31, United States Code. Such allocation shall include the full allowance specified under section 251(b)(2)(E)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(b) As soon as practicable after a section 602(a) allocation is submitted under this section, the Committee on Appropriations shall make suballocations and promptly report those suballocations to the House of Representatives.

"SEC. 604. RECONCILIATION DIRECTIVES REGARDING PAY-AS-YOU-GO REQUIREMENTS.

"(a) INSTRUCTIONS TO EFFECTUATE PAY-AS-YOU-GO IN THE HOUSE OF REPRESENTATIVES.—If legislation providing for a net reduction in revenues in any fiscal year (that, within the same measure, is not fully offset in that fiscal year by reductions in direct spending) is enacted, the Committee on the Budget of the House of Representatives may report, within 15 legislative days during a Congress, a pay-as-you-go reconciliation directive in the form of a concurrent resolution—

"(1) specifying the total amount by which revenues sufficient to eliminate the net deficit increase resulting from that legislation in each fiscal year are to be changed; and

"(2) directing that the committees having jurisdiction determine and recommend changes in the revenue law, bills, and resolutions to accomplish a change of such total amount.

"(b) CONSIDERATION OF PAY-AS-YOU-GO RECONCILIATION LEGISLATION IN THE HOUSE OF REPRESENTATIVES.—In the House of Representatives, subsections (b) through (d) of section 310 shall apply in the same manner as if the reconciliation directive described in subsection (a) were a concurrent resolution on the budget.

"SEC. 605. APPLICATION OF SECTION 311; POINT OF ORDER.

"(a) APPLICATION OF SECTION 311(a).—(1) In the House of Representatives, in the application of section 311(a)(1) to any bill, resolution, amendment, or conference report, reference in section 311 to the appropriate level of total budget authority or total budget outlays or appropriate level of total revenues set forth in the most recently agreed to concurrent resolution on the budget for a fiscal year shall be deemed to be a reference to the appropriate level for that fiscal

year and to the total of the appropriate level for that year and the 4 succeeding years.

"(2) In the Senate, in the application of section 311(a)(2) to any bill, resolution, motion, or conference report, reference in section 311 to the appropriate level of total revenues set forth in the most recently agreed to concurrent resolution on the budget for a fiscal year shall be deemed to be a reference to the appropriate level for that fiscal year and to the total of the appropriate levels for that year and the 4 succeeding years.

"(b) MAXIMUM DEFICIT AMOUNT POINT OF ORDER IN THE SENATE.—After Congress has completed action on a concurrent resolution on the budget, it shall not be in order in the Senate to consider any bill, resolution, amendment, motion, or conference report that would result in a deficit for the first fiscal year covered by that resolution that exceeds the maximum deficit amount specified for such fiscal year in section 601(a).

"SEC. 606. 5-YEAR BUDGET RESOLUTIONS; BUDGET RESOLUTIONS MUST CONFORM TO BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.

"(a) 5-YEAR BUDGET RESOLUTIONS.—In the case of any concurrent resolution on the budget for fiscal year 1992, 1993, 1994, or 1995, that resolution shall set forth appropriate levels for the fiscal year beginning on October 1 of the calendar year in which it is reported and for each of the 4 succeeding fiscal years for the matters described in section 301(a).

"(b) POINT OF ORDER IN THE HOUSE OF REPRESENTATIVES.—It shall not be in order in the House of Representatives to consider any concurrent resolution on the budget for a fiscal year or conference report thereon under section 301 or 304 that exceeds the maximum deficit amount for each fiscal year covered by the concurrent resolution or conference report as determined under section 601(a), including possible revisions under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(c) 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 such a concurrent resolution, or to consider a conference report on such a concurrent resolution, if the level of total budget outlays for the first fiscal year that is set forth in such 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 for such fiscal year as determined under section 601(a), or 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 for such fiscal years as determined under section 601(a).

"(d) ADJUSTMENTS.—(1) Notwithstanding any other provision of law, concurrent resolutions on the budget for fiscal years 1992, 1993, 1994, and 1995 under section 301 or 304 may set forth levels consistent with allocations increased by—

"(A) amounts not to exceed the budget authority amounts in section 251(b)(2)(E)(i) and (ii) of the Balanced Budget and Emer-

gency Deficit Control Act of 1985 and the composite outlays per category consistent with them; and

"(B) the budget authority and outlay amounts in section 251(b)(1) of that Act.

"(2) For purposes of congressional consideration of provisions described in sections 251(b)(2)(A), 251(b)(2)(B), 251(b)(2)(C), 251(b)(2)(D), and 252(e), determinations under sections 302, 303, and 311 shall not take into account any new budget authority, new entitlement authority, outlays, receipts, or deficit effects in any fiscal year of those provisions.

"SEC. 607. EFFECTIVE DATE.

This title shall take effect upon its date of enactment and shall apply to fiscal years 1991 to 1995.".

SEC. 13112. CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.—

(1) TABLE OF CONTENTS.—Section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended to reflect the new section numbers and headings resulting from amendments made by this title.

(2) SECTION 3.—Section 3 of such Act is amended—

(A) by striking paragraphs (6), (7), and (8) and inserting the following:

"(6) The term 'deficit' means, with respect to a fiscal year, the amount by which outlays exceeds receipts during that year.

"(7) The term 'surplus' means, with respect to a fiscal year, the amount by which receipts exceeds outlays during that year.

"(8) The term 'government-sponsored enterprise' means a corporate entity created by a law of the United States that—

"(A)(i) has a Federal charter authorized by law;

"(ii) is privately owned, as evidenced by capital stock owned by private entities or individuals;

"(iii) is under the direction of a board of directors, a majority of which is elected by private owners;

"(iv) is a financial institution with power to—

"(I) make loans or loan guarantees for limited purposes such as to provide credit for specific borrowers or one sector; and

"(II) raise funds by borrowing (which does not carry the full faith and credit of the Federal Government) or to guarantee the debt of others in unlimited amounts; and

"(B)(i) does not exercise powers that are reserved to the Government as sovereign (such as the power to tax or to regulate interstate commerce);

"(ii) does not have the power to commit the Government financially (but it may be a recipient of a loan guarantee commitment made by the Government); and

"(iii) has employees whose salaries and expenses are paid by the enterprise and are not Federal employees subject to title 5 of the United States Code.".

(3) SECTION 202.—Section 202(a)(1) and the second sentence of 202(f)(1) of such Act are amended by striking "budget authority" and inserting "new budget authority".

35-428 0 - 90 - 21

(4) SECTION 300.—Section 300 of such Act is amended by striking "First Monday after January 3" and by inserting "First Monday in February".

(5) SECTION 301(d).—Section 301(d) of such Act is amended by striking "On or before February 25 of each year" and inserting "Within 6 weeks after the President submits a budget under section 1105(a) of title 31, United States Code".

(6) SECTION 302(a).—Section 302(a)(2) of such Act is amended by striking "the House of Representatives and".

(7) SECTION 302(f).—Section 302(f)(2) of such Act is amended—

(A) by inserting after "in excess of" the following: "(A)";

(B) by striking "under subsection (b)" and inserting "under subsection (a), or (B) the appropriate allocation (if any) of such outlays or authority reported under subsection (b)"; and

(C) by inserting at the end the following:

"Subparagraph (A) shall not apply to any bill, resolution, amendment, motion, or conference report that is within the jurisdiction of the Committee on Appropriations.".

(8) SECTION 304.—Section 304 of such Act is amended by striking subsection (b) and by striking "(c)" and inserting "(b)".

(9) SECTION 310(g).—Section 310(g) of such Act is amended by striking "resolution pursuant" and inserting "joint resolution pursuant" and by striking "254(b)" and inserting "258C".

(10) SECTION 311(a).—Section 311(a) of such Act is amended by striking "or, in the Senate" and all that follows thereafter through "paragraph (2) of such subsection" and inserting "except in the case that a declaration of war by the Congress is in effect".

(11) SECTION 904(a).—Section 904(a) of such Act is amended by striking "and" after "III", by inserting ", V, and VI (except section 601(a))" after "IV", and by striking "606,".

(b) CONFORMING AMENDMENT TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—Subsection (b) of section 275 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(b) EXPIRATION.—Part C of this title, section 271(b) of this Act, and sections 1105(f) and 1106(c) of title 31, United States Code, shall expire September 30, 1995.".

(c) CONFORMING AMENDMENTS TO SECTION 1105 OF TITLE 31, UNITED STATES CODE.—

(1) SECTION 1105(a).—Section 1105(a) of title 31, United States Code, is amended by striking "On or before the first Monday after January 3 of each year (or on or before February 5 in 1986)" and by inserting "On or after the first Monday in January but not later than the first Monday in February of each year."

(2) SECTION 1105(f).—Section 1105(f) of title 31, United States Code, is amended to read as follows:

"(f) The budget transmitted pursuant to subsection (a) for a fiscal year shall be prepared in a manner consistent with the requirements of the Balanced Budget and Emergency Deficit Control Act of 1985 that apply to that and subsequent fiscal years.".

(d) CONFORMING AMENDMENTS TO THE RULES OF THE HOUSE OF REPRESENTATIVES.—

(1) CROSS-REFERENCE.—Clause 1(e)(2) of rule X of the Rules of the House of Representatives is amended by striking "(a)(4)".

(2) CROSS-REFERENCE.—Clause 1(e)(2) of rule X of Rules of the House of Representatives is amended by striking "Act, and any resolution pursuant to section 254(b) of the Balanced Budget and Emergency Deficit Control Act of 1985" and inserting "Act".

(3) JURISDICTION.—Clause 1(j) of rule X of the Rules of the House of Representatives is amended by inserting after paragraph (6) the following new paragraph:

"(7) Measures providing exemption from reduction under any order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(4) ALLOCATIONS.—Clause 4(h) of rule X of the Rules of the House of Representatives is amended by inserting "or section 602 (in the case of fiscal years 1991 through 1995)" after "section 302".

(5) MULTIYEAR REVENUE ESTIMATES.—Clause 7(a)(1) of rule XIII of the Rules of the House of Representatives is amended by striking ", except that, in the case of measures affecting the revenues, such reports shall require only an estimate of the gain or loss in revenues for a one-year period".

(e) CONFORMING AMENDMENT TO THE FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1978.—Section 103(a) of the Full Employment and Balanced Growth Act of 1978 (15 U.S.C. 1022(a) is amended by striking "transmit to the Congress during the first twenty days of each regular session" and inserting "annually transmit to the Congress not later than 10 days after the submission of the budget under section 1105(a) of title 31, United States Code".

(f) FILING REQUIREMENT.—After the convening of the One Hundred Second Congress, the chairman of the Committee on the Budget of the Senate shall file with the Senate revised and outyear budget aggregates and allocations under section 602(a) consistent with this Act.

Subtitle B—Permanent Amendments to the Congressional Budget and Impoundment Control Act of 1974

SEC. 13201. CREDIT ACCOUNTING.

(a) CREDIT ACCOUNTING.—Title V of the Congressional Budget Act of 1974 is amended to read as follows:

"TITLE V—CREDIT REFORM

"SEC. 500. SHORT TITLE.

"This title may be cited as the 'Federal Credit Reform Act of 1990'.

"SEC. 501. PURPOSES.

"The purposes of this title are to—

"(1) measure more accurately the costs of Federal credit programs;

"(2) place the cost of credit programs on a budgetary basis equivalent to other Federal spending;

"(3) encourage the delivery of benefits in the form most appropriate to the needs of beneficiaries; and

"(4) improve the allocation of resources among credit programs and between credit and other spending programs.

"SEC. 502. DEFINITIONS.

"For purposes of this title—

"(1) The term 'direct loan' means a disbursement of funds by the Government to a non-Federal borrower under a contract that requires the repayment of such funds with or without interest. The term includes the purchase of, or participation in, a loan made by another lender. The term does not include the acquisition of a federally guaranteed loan in satisfaction of default claims or the price support loans of the Commodity Credit Corporation.

"(2) The term 'direct loan obligation' means a binding agreement by a Federal agency to make a direct loan when specified conditions are fulfilled by the borrower.

"(3) The term 'loan guarantee' means any guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions.

"(4) The term 'loan guarantee commitment' means a binding agreement by a Federal agency to make a loan guarantee when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreement.

"(5)(A) The term 'cost' means the estimated long-term cost to the Government of a direct loan or loan guarantee, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays.

"(B) The cost of a direct loan shall be the net present value, at the time when the direct loan is disbursed, of the following cash flows:

"(i) loan disbursements;

"(ii) repayments of principal; and

"(iii) payments of interest and other payments by or to the Government over the life of the loan after adjusting for estimated defaults, prepayments, fees, penalties and other recoveries.

"(C) The cost of a loan guarantee shall be the net present value when a guaranteed loan is disbursed of the cash flow from—

"(i) estimated payments by the Government to cover defaults and delinquencies, interest subsidies, or other payments, and

"(ii) the estimated payments to the Government including origination and other fees, penalties and recoveries.

"(D) Any Government action that alters the estimated net present value of an outstanding direct loan or loan guarantee (except modifications within the terms of existing contracts or through other existing authorities) shall be counted as a change in the cost of that direct loan or loan guarantee. The calculation of such changes shall be based on the estimated present value of the direct loan or loan guarantee at the time of modification.

"(E) In estimating net present values, the discount rate shall be the average interest rate on marketable Treasury securities of similar maturity to the direct loan or loan guarantee for which the estimate is being made.

"(6) The term 'credit program account' means the budget account into which an appropriation to cover the cost of a direct loan or loan guarantee program is made and from which such cost is disbursed to the financing account.

"(7) The term 'financing account' means the non-budget account or accounts associated with each credit program account which holds balances, receives the cost payment from the credit program account, and also includes all other cash flows to and from the Government resulting from direct loan obligations or loan guarantee commitments made on or after October 1, 1991.

"(8) The term 'liquidating account' means the budget account that includes all cash flows to and from the Government resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991. These accounts shall be shown in the budget on a cash basis.

"(9) The term 'Director' means the Director of the Office of Management and Budget.

"SEC. 503. OMB AND CBO ANALYSIS, COORDINATION, AND REVIEW.

"(a) IN GENERAL.—For the executive branch, the Director shall be responsible for coordinating the estimates required by this title. The Director shall consult with the agencies that administer direct loan or loan guarantee programs.

"(b) DELEGATION.—The Director may delegate to agencies authority to make estimates of costs. The delegation of authority shall be based upon written guidelines, regulations, or criteria consistent with the definitions in this title.

"(c) COORDINATION WITH THE CONGRESSIONAL BUDGET OFFICE.—In developing estimation guidelines, regulations, or criteria to be used by Federal agencies, the Director shall consult with the Director of the Congressional Budget Office.

"(d) IMPROVING COST ESTIMATES.—The Director and the Director of the Congressional Budget Office shall coordinate the development of more accurate data on historical performance of direct loan and loan guarantee programs. They shall annually review the performance of outstanding direct loans and loan guarantees to improve estimates of costs. The Office of Management and Budget and the Congressional Budget Office shall have access to all agency data that may facilitate the development and improvement of estimates of costs.

"(e) HISTORICAL CREDIT PROGRAM COSTS.—The Director shall review, to the extent possible, historical data and develop the best possible estimates of adjustments that would convert aggregate historical budget data to credit reform accounting.

"(f) ADMINISTRATIVE COSTS.—The Director and the Director of the Congressional Budget Office shall each analyze and report to Congress on differences in long-term administrative costs for credit programs versus grant programs by January 31, 1992. Their reports shall recommend to Congress any changes, if necessary, in the treatment of administrative costs under credit reform accounting.

"SEC. 504. BUDGETARY TREATMENT.

"(a) PRESIDENT'S BUDGET.—Beginning with fiscal year 1992, the President's budget shall reflect the costs of direct loan and loan guarantee programs. The budget shall also include the planned level of new direct loan obligations or loan guarantee commitments associated with each appropriations request.

"(b) APPROPRIATIONS REQUIRED.—Notwithstanding any other provision of law, new direct loan obligations may be incurred and new loan guarantee commitments may be made for fiscal year 1992 and thereafter only to the extent that—

"(1) appropriations of budget authority to cover their costs are made in advance;

"(2) a limitation on the use of funds otherwise available for the cost of a direct loan or loan guarantee program is enacted; or

"(3) authority is otherwise provided in appropriation Acts.

"(c) EXEMPTION FOR MANDATORY PROGRAMS.—Subsection (b) shall not apply to a direct loan or loan guarantee program that—

"(1) constitutes an entitlement (such as the guaranteed student loan program or the veterans' home loan guaranty program); or

"(2) all existing credit programs of the Commodity Credit Corporation on the date of enactment of this title.

"(d) BUDGET ACCOUNTING.—

"(1) The authority to incur new direct loan obligations, make new loan guarantee commitments, or directly or indirectly alter the costs of outstanding direct loans and loan guarantees shall constitute new budget authority in an amount equal to the cost of the direct loan or loan guarantee in the fiscal year in which definite authority becomes available or indefinite authority is used. Such budget authority shall constitute an obligation of the credit program account to pay to the financing account.

"(2) The outlays resulting from new budget authority for the cost of direct loans or loan guarantees described in paragraph (1) shall be paid from the credit program account into the financing account and recorded in the fiscal year in which the direct loan or the guaranteed loan is disbursed or its costs altered.

"(3) All collections and payments of the financing accounts shall be a means of financing.

"(e) MODIFICATIONS.—A direct loan obligation or loan guarantee commitment shall not be modified in a manner that increases its cost unless budget authority for the additional cost is appropriated,

or is available out of existing appropriations or from other budgetary resources.

"(f) REESTIMATES.—When the estimated cost for a group of direct loans or loan guarantees for a given credit program made in a single fiscal year is reestimated in a subsequent year, the difference between the reestimated cost and the previous cost estimate shall be displayed as a distinct and separately identified subaccount in the credit program account as a change in program costs and a change in net interest. There is hereby provided permanent indefinite authority for these reestimates.

"(g) ADMINISTRATIVE EXPENSES.—All funding for an agency's administration of a direct loan or loan guarantee program shall be displayed as distinct and separately identified subaccounts within the same budget account as the program's cost.

"SEC. 505. AUTHORIZATIONS.

"(a) AUTHORIZATION OF APPROPRIATIONS FOR COSTS.—There are authorized to be appropriated to each Federal agency authorized to make direct loan obligations or loan guarantee commitments, such sums as may be necessary to pay the cost associated with such direct loan obligations or loan guarantee commitments.

"(b) AUTHORIZATION FOR FINANCING ACCOUNTS.—In order to implement the accounting required by this title, the President is authorized to establish such non-budgetary accounts as may be appropriate.

"(c) TREASURY TRANSACTIONS WITH THE FINANCING ACCOUNTS.—The Secretary of the Treasury shall borrow from, receive from, lend to, or pay to the financing accounts such amounts as may be appropriate. The Secretary of the Treasury may prescribe forms and denominations, maturities, and terms and conditions for the transactions described above. The authorities described above shall not be construed to supercede or override the authority of the head of a Federal agency to administer and operate a direct loan or loan guarantee program. All of the transactions provided in this subsection shall be subject to the provisions of subchapter II of chapter 15 of title 31, United States Code. Cash balances of the financing accounts in excess of current requirements shall be maintained in a form of uninvested funds and the Secretary of the Treasury shall pay interest on these funds.

"(d) AUTHORIZATION FOR LIQUIDATING ACCOUNTS.—If funds in liquidating accounts are insufficient to satisfy the obligations and commitments of said accounts, there is hereby provided permanent, indefinite authority to make any payments required to be made on such obligations and commitments.

"(e) AUTHORIZATION OF APPROPRIATIONS FOR IMPLEMENTATION EXPENSES.—There are authorized to be appropriated to existing accounts such sums as may be necessary for salaries and expenses to carry out the responsibilities under this title.

"(f) REINSURANCE.—Nothing in this title shall be construed as authorizing or requiring the purchase of insurance or reinsurance on a direct loan or loan guarantee from private insurers. If any such reinsurance for a direct loan or loan guarantee is authorized, the cost of such insurance and any recoveries to the Government shall be included in the calculation of the cost.

"(g) ELIGIBILITY AND ASSISTANCE.—Nothing in this title shall be construed to change the authority or the responsibility of a Federal agency to determine the terms and conditions of eligibility for, or the amount of assistance provided by a direct loan or a loan guarantee.

"SEC. 506. TREATMENT OF DEPOSIT INSURANCE AND AGENCIES AND OTHER INSURANCE PROGRAMS.

"(a) IN GENERAL.—

"(1) This title shall not apply to the credit or insurance activities of the Federal Deposit Insurance Corporation, National Credit Union Administration, Resolution Trust Corporation, Pension Benefit Guaranty Corporation, National Flood Insurance, National Insurance Development Fund, Crop Insurance, or Tennessee Valley Authority.

"(2) The Director and the Director of the Congressional Budget Office shall each study whether the accounting for Federal deposit insurance programs should be on a cash basis on the same basis as loan guarantees, or on a different basis. Each Director shall report findings and recommendations to the President and the Congress on or before May 31, 1991.

"(3) For the purposes of paragraph (2), the Office of Management and Budget and the Congressional Budget Office shall have access to all agency data that may facilitate these studies.

"SEC. 507. EFFECT ON OTHER LAWS.

"(a) EFFECT ON OTHER LAWS.—This title shall supersede, modify, or repeal any provision of law enacted prior to the date of enactment of this title to the extent such provision is inconsistent with this title. Nothing in this title shall be construed to establish a credit limitation on any Federal loan or loan guarantee program.

"(b) CREDITING OF COLLECTIONS.—Collections resulting from direct loans obligated or loan guarantees committed prior to October 1, 1991, shall be credited to the liquidating accounts of Federal agencies. Amounts so credited shall be available, to the same extent that they were available prior to the date of enactment of this title, to liquidate obligations arising from such direct loans obligated or loan guarantees committed prior to October 1, 1991, including repayment of any obligations held by the Secretary of the Treasury or the Federal Financing Bank. The unobligated balances of such accounts that are in excess of current needs shall be transferred to the general fund of the Treasury. Such transfers shall be made from time to time but, at least once each year.".

(b) CONFORMING AMENDMENTS.—

(1) DEFINITION.—Section 3(2) of the Congressional Budget Act of 1974 is amended by adding at the end the following: "The term includes the cost for direct loan and loan guarantee programs, as those terms are defined by title V".

(2) POINT OF ORDER FOR FISCAL YEAR 1991.—Effective January 1, 1991, for fiscal year 1991 only, section 302(f)(2) of the Congressional Budget Act of 1974 is amended by inserting after "new budget authority" the following: "or new credit authority".

(3) SUNSET OF POINT OF ORDER IN FISCAL YEAR 1992.—Effective for fiscal years beginning after September 30, 1991, section 302 of the Congressional Budget Act is amended—

(A) in subsection (a)(1)—

(i) by striking "total entitlement authority, and total credit authority" and inserting "and total entitlement authority";

(ii) by striking "such entitlement authority, or such credit authority" and inserting "or such entitlement authority"; and

(iii) by striking "entitlement authority, and credit authority" and inserting "and entitlement authority";

(B) in subsection (a)(2), by striking "total budget outlays, total new budget authority and new credit authority" and inserting "total budget outlays and total new budget authority";

(C) in subsection (b)(1)(A), by striking "budget outlays, new budget authority, and new credit authority" and inserting "budget outlays and new budget authority";

(D) in subsection (c)—

(i) in paragraph (1), by inserting "or" at the end thereof; and

(ii) by striking "or (3) new credit authority for a fiscal year;"; and

(E) in subsection (f)(1)—

(i) by striking "year, new entitlement authority effective during such fiscal year, or new credit authority for such fiscal year," and inserting "year or new entitlement authority effective during such fiscal year,"; and

(ii) by striking "authority, new entitlement authority, or new credit authority" and inserting "authority or new entitlement authority".

SEC. 13202. CODIFICATION OF PROVISION REGARDING REVENUE ESTIMATES.

(a) REDESIGNATION.—Section 201 of the Congressional Budget Act of 1974 is amended by redesignating subsection (f) as subsection (g).

(b) TRANSFER.—The text of section 273 of the Balanced Budget and Emergency Deficit Control Act of 1985 is transferred to section 201 of the Congressional Budget Act of 1974 and is designated as subsection (g).

(c) CONFORMING CHANGES.—Section 201(g) of the Congressional Budget Act of 1974 (as redesignated by subsection (b)) is amended by—

(1) striking "this title and the Congressional Budget and Impoundment Control Act of 1974" and inserting "this Act"; and

(2) inserting "REVENUE ESTIMATES.—" before the first sentence.

SEC. 13203. DEBT INCREASE AS MEASURE OF DEFICIT; DISPLAY OF FEDERAL RETIREMENT TRUST FUND BALANCES.

Section 301(b) of the Congressional Budget Act of 1974 is amended by striking "and" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting a semicolon, and by adding at the end the following new paragraphs:

"(5) include a heading entitled 'Debt Increase as Measure of Deficit' in which the concurrent resolution shall set forth the amounts by which the debt subject to limit (in section 3101 of title 31 of the United States Code) has increased or would increase in each of the relevant fiscal years; and

"(6) include a heading entitled 'Display of Federal Retirement Trust Fund Balances' in which the concurrent resolution shall set forth the balances of the Federal retirement trust funds.".

SEC. 13204. PAY-AS-YOU-GO PROCEDURES.

Section 301(b) of the Congressional Budget Act of 1974 (as amended by section 13203) is further amended by striking "and" at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting a semicolon, and by adding at the end the following new paragraphs:

"(7) set forth pay-as-you-go procedures for the Senate whereby—

"(A) budget authority and outlays may be allocated to a committee for legislation that increases funding for entitlement and mandatory spending programs within its jurisdiction if that committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in the concurrent resolution on the budget, the enactment of such legislation will not increase the deficit (by virtue of either deficit reduction in the bill or previously passed deficit reduction) in the resolution for the first fiscal year covered by the concurrent resolution on the budget, and will not increase the total deficit for the period of fiscal years covered by the concurrent resolution on the budget;

"(B) upon the reporting of legislation pursuant to subparagraph (A), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under section 302(a) and revised functional levels and aggregates to carry out this paragraph;

"(C) such revised allocations, functional levels, and aggregates shall be considered for the purposes of this Act as allocations, functional levels, and aggregates contained in the concurrent resolution on the budget; and

"(D) the appropriate committee shall report appropriately revised allocations pursuant to section 302(b) to carry out this paragraph; and

"(8) set forth procedures to effectuate pay-as-you-go in the House of Representatives.".

SEC. 13205. AMENDMENTS TO SECTION 303.

(a) IN GENERAL.—Section 303(a) of the Congressional Budget Act of 1974 is amended—

(1) by repealing paragraph (5),

(2) by striking "or" at the end of paragraph (4),

(3) by inserting after paragraph (4) the following new paragraphs:

"(5) in the Senate only, new spending authority (as defined in section 401(c)(2)) for a fiscal year; or

"(6) in the Senate only, outlays,"; and

(4) by inserting after "the concurrent resolution on the budget for such fiscal year" the following: "(or, in the Senate, a concurrent resolution on the budget covering such fiscal year)".

(b) EXCEPTIONS.—Section 303(b) of such Act is amended—

(1) by striking "Subsection (a)" and inserting "(1) In the House of Representatives, subsection (a)" and by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(2) by inserting at the end the following new paragraph:

"(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.".

SEC. 13206. AMENDMENTS TO SECTION 308.

(a) REPORTS AND SUMMARIES OF CONGRESSIONAL BUDGET ACTIONS.—(1) Section 308(a)(1) of that Act is amended—

(1) in the matter preceding subparagraph (A) by inserting after "fiscal year" the following: "(or fiscal years)";

(2) in subparagraph (A) by inserting after "fiscal year" the following: "(or fiscal years)"; and

(3) in subparagraph (C) by inserting after "such fiscal year" the following: "(or fiscal years)".

(b) CONFORMING AMENDMENT.—Section 308(a)(2) of that Act is amended by inserting after "fiscal year" the following: "(or fiscal years)".

(c) ADDITIONAL CONFORMING AMENDMENT.—Section 308(b)(1) of that Act is amended—

(1) by striking "for a fiscal year" in the first sentence and inserting "for each fiscal year covered by a concurrent resolution on the budget"; and

(2) by striking "such fiscal year" in the second sentence and inserting "the first fiscal year covered by the appropriate concurrent resolution".

SEC. 13207. STANDARDIZATION OF LANGUAGE REGARDING POINTS OF ORDER.

(a) IN GENERAL.—The Congressional Budget Act of 1974 is amended—

(1)(A) in section 302(c), by striking "bill or resolution, or amendment thereto" and inserting "bill, joint resolution, amendment, motion, or conference report";

(B) in section 302(f)(1), by inserting "joint" before "resolution" the second and third places it appears and in section 302(f)(2), by striking "bill or resolution (including a conference report thereon), or any amendment to a bill or resolution" and inserting "bill, joint resolution, amendment, motion, or conference report";

(C) in section 303(a), by striking "bill or resolution (or amendment thereto)" and inserting "bill, joint resolution, amendment, motion, or conference report";

(D) in section 306, by striking "bill or resolution, and no amendment to any bill or resolution" and inserting "bill, resolution, amendment, motion, or conference report";

(E) in section 311(a), by—

(i) striking "bill, resolution, or amendment" and inserting "bill, joint resolution, amendment, motion, or conference report"; and

(ii) striking "or any conference report on any such bill or resolution";

(F) in section 401(a), by—

(i) striking "bill, resolution, or conference report" and inserting "bill, joint resolution, amendment, motion, or conference report"; and

(ii) striking "(or any amendment which provides such new spending authority)";

(G) in section 401(b)(1), by—

(i) striking "bill or resolution" and inserting "bill, joint resolution, amendment, motion, or conference report, as reported to its House"; and

(ii) striking "(or any amendment which provides such new spending authority)"; and

(H) in section 402(a), by—

(i) striking "bill, resolution, or conference report" and inserting "bill, joint resolution, amendment, motion, or conference report"; and

(ii) striking "or any amendment"; and

(2) in section 302(f)(2), by striking "outlays or new budget authority" and inserting "outlays, new budget authority, or new spending authority (as defined in section 401(c)(2))".

(b) POINTS OF ORDER IN THE SENATE.—

(1) Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"EFFECTS OF POINTS OF ORDER

"SEC. 312. 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.

"(b) 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.".

(2) The table of contents for the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 311 the following new item:

"Sec. 312. Effect of points of order.".

(c) ADJUSTMENT IN THE SENATE OF ALLOCATIONS AND AGGREGATES TO REFLECT CHANGES PURSUANT TO SECTION 310(c).—Section 310(c) of the Congressional Budget Act of 1974 is amended by—

(1) inserting "(1)" before "Any committee";

(2) redesignating subparagraphs (A) and (B) of paragraph (1) as clauses (i) and (ii), respectively;

(3) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(4) inserting at the end the following new paragraph:

"(2)(A) Upon the reporting to the Committee on the Budget of the Senate of a recommendation that shall be deemed to have complied with such directions solely by virtue of this subsection, the chairman of that committee may file with the Senate appropriately revised allocations under section 302(a) and revised functional levels and aggregates to carry out this subsection.

"(B) Upon the submission to the Senate of a conference report recommending a reconciliation bill or resolution in which a committee shall be deemed to have complied with such directions solely by virtue of this subsection, the chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under section 302(a) and revised functional levels and aggregates to carry out this subsection.

"(C) Allocations, functional levels, and aggregates revised pursuant to this paragraph shall be considered to be allocations, functional levels, and aggregates contained in the concurrent resolution on the budget pursuant to section 301.

"(D) Upon the filing of revised allocations pursuant to this paragraph, the reporting committee shall report revised allocations pursuant to section 302(b) to carry out this subsection.".

(d) RECONCILIATION INSTRUCTIONS.—Section 310(a)(4) of the Congressional Budget Act of 1974 is amended by inserting after "(3)" the following: "(including a direction to achieve deficit reduction)".

SEC. 13208. STANDARDIZATION OF ADDITIONAL DEFICIT CONTROL PROVISIONS.

(a) Section 904 of the Congressional Budget Act of 1974 is amended—

(1) by amending subsection (c) to read as follows:

"(c) WAIVER.—Sections 305(b)(2), 305(c)(4), 306, 904(c), and 904(d) may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn. Sections 301(i), 302(c), 302(f), 310(d)(2), 310(f), 311(a), 313, 601(b), and 606(c) of this Act and sections 258(a)(4)(C), 258A(b)(3)(C)(i), 258B(f)(1), 258B(h)(1), 258B(h)(3), 258C(a)(5), and 258C(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. "; and

(2) in subsection (d) by inserting at the end the following: "An affirmative vote of three-fifths of the Members of the Senate, 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, 904(c), and 904(d). An affirmative vote of three-fifths of the Members of the Senate, 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(d)(2), 310(f),

311(a), 313, 601(b), and 606(c) of this Act and sections 258(a)(4)(C), 258A(b)(3)(C)(i), 258B(f)(1), 258B(h)(1), 258B(h)(3), 258C(a)(5), and 258C(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985".

(b) Section 275(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subparagraph (C), by striking the final word "and";

(2) in subparagraph (D), by striking the final period and inserting "; and"; and

(3) by inserting at the end the following new subparagraph:

"(E) the second sentence of section 904(c) of the Congressional Budget and Impoundment Control Act of 1974 and the final sentence of section 904(d) of that Act."

SEC. 13209. CODIFICATION OF PRECEDENT WITH REGARD TO CONFERENCE REPORTS AND AMENDMENTS BETWEEN HOUSES.

Section 305(c) of the Congressional Budget Act 1974 is amended—

(1) in paragraph (1)—

(A) by striking the first sentence; and

(B) by inserting after "consideration of the conference report" the following: "on any concurrent resolution on the budget (or a reconciliation bill or resolution)"; and

(2) in paragraph (2), by inserting "(or a message between Houses)" after "conference report" each place it appears.

SEC. 13210. SUPERSEDED DEADLINES AND CONFORMING CHANGES.

The Congressional Budget Act of 1974 is amended—

(1) in section 305, by striking subsection (d) and redesignating subsection (e) as subsection (d); and

(2) in section 310(f), by striking paragraph (1) and by striking "(2) POINT OF ORDER IN THE HOUSE OF REPRESENTATIVES.—".

SEC. 13211. DEFINITIONS.

(a) BUDGET AUTHORITY.—Section 3(2) of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"(2) BUDGET AUTHORITY AND NEW BUDGET AUTHORITY.—

"(A) IN GENERAL.—The term 'budget authority' means the authority provided by Federal law to incur financial obligations, as follows:

"(i) provisions of law that make funds available for obligation and expenditure (other than borrowing authority), including the authority to obligate and expend the proceeds of offsetting receipts and collections;

"(ii) borrowing authority, which means authority granted to a Federal entity to borrow and obligate and expend the borrowed funds, including through the issuance of promissory notes or other monetary credits;

"(iii) contract authority, which means the making of funds available for obligation but not for expenditure; and

"(iv) offsetting receipts and collections as negative budget authority, and the reduction thereof as positive budget authority.

"(B) LIMITATIONS ON BUDGET AUTHORITY.—With respect to the Federal Hospital Insurance Trust Fund, the Supple-

mentary Medical Insurance Trust Fund, the Unemployment Trust Fund, and the railroad retirement account, any amount that is precluded from obligation in a fiscal year by a provision of law (such as a limitation or a benefit formula) shall not be budget authority in that year.

"(C) NEW BUDGET AUTHORITY.—The term 'new budget authority' means, with respect to a fiscal year—

"(i) budget authority that first becomes available for obligation in that year, including budget authority that becomes available in that year as a result of a reappropriation; or

"(ii) a change in any account in the availability of unobligated balances of budget authority carried over from a prior year, resulting from a provision of law first effective in that year;

and includes a change in the estimated level of new budget authority provided in indefinite amounts by existing law.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective for fiscal year 1992 and subsequent fiscal years.

SEC. 13212. SAVINGS TRANSFERS BETWEEN FISCAL YEARS.

Section 202 of Public Law 100–119 is repealed.

SEC. 13213. CONFORMING CHANGE TO TITLE 31.

(a) LIMITATIONS ON EXPENDING AND OBLIGATING.—Section 1341(a)(1) of title 31, United States Code, is amended—

(1) in subparagraph (A), by striking the final word "or";

(2) in subparagraph (B), by striking the final period and inserting a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(C) make or authorize an expenditure or obligation of funds required to be sequestered under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985; or

"(D) involve either government in a contract or obligation for the payment of money required to be sequestered under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(b) LIMITATION ON VOLUNTARY SERVICES.—Section 1342 of title 31, United States Code, is amended by inserting at the end the following: "As used in this section, the term 'emergencies involving the safety of human life or the protection of property' does not include ongoing, regular functions of government the suspension of which would not imminently threaten the safety of human life or the protection of property.".

SEC. 13214. THE BYRD RULE ON EXTRANEOUS MATTER IN RECONCILIATION.

(a) THE BYRD RULE ON EXTRANEOUS MATTER IN RECONCILIATION.—Section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended—

(1) in subsection (a)—

(A) by inserting after "(a)" the following: "IN GENERAL.—";

(B) by inserting after "1974" the following: "(whether that bill or resolution originated in the Senate or the

House) or section 258C of the Balanced Budget and Emergency Deficit Control Act of 1985";

(2) in subsection (d) by inserting after "(d)" the following: "EXTRANEOUS PROVISIONS.—";

(3) in subsection (d)(1)(A) by inserting before the semicolon "(but a provision in which outlay decreases or revenue increases exactly offset outlay increases or revenue decreases shall not be considered extraneous by virtue of this subparagraph)";

(4) in subsection (d)(1)(D) by striking "and" after the semicolon;

(5) in subsection (d)(1)(E), by striking the period at the end and inserting "; and";

(6) in subsection (d)(1) by adding at the end the following new subparagraph:

"(F) a provision shall be considered extraneous if it violates section 310(g).";

(7) in subsection (d)(2), by inserting after "A" the first place it appears the following: "Senate-originated"; and

(8) by adding at the end the following new subsections:

"(e) EXTRANEOUS MATERIALS.—Upon the reporting or discharge of a reconciliation bill or resolution pursuant to section 310 in the Senate, and again upon the submission of a conference report on such a reconciliation bill or resolution, the Committee on the Budget of the Senate shall submit for the record a list of material considered to be extraneous under subsections (b)(1)(A), (b)(1)(B), and (b)(1)(E) of this section to the instructions of a committee as provided in this section. The inclusion or exclusion of a provision shall not constitute a determination of extraneousness by the Presiding Officer of the Senate.

"(f) GENERAL POINT OF ORDER.—Notwithstanding any other law or rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of a bill, resolution, amendment, motion, or conference report violate this section. The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some of the provisions (including provisions of an amendment, motion, or conference report) against which the Senator raised the point of order, then only those provisions (including provisions of an amendment, motion, or conference report) against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this section. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate. After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

"(g) DETERMINATION OF LEVELS.—For purposes of this section, the levels of new budget authority, budget outlays, 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 Senate.".

(b) TRANSFER OF BYRD RULE.—*(1) Section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by subsection (a), is transferred to the end of title III of the Congressional Budget Act of 1974, and designated as section 313 of that Act.*

(2) Section 313 of the Congressional Budget Act of 1974 is amended by—

(A) adding at the beginning the following center heading:

"EXTRANEOUS MATTER IN RECONCILIATION LEGISLATION";

(B) striking subsection (b), subsection (c), and the last sentence of subsection (a); and

(C) redesignating subsections (d) (e), (f), and (g) as subsections (b), (c), (d) and (e), respectively.

(3) Subsection (a) of the first section of Senate Resolution 286 (99th Congress, 1st Session), as amended by Senate Resolution 509 (99th Congress, 2d Session) is enacted as subsection (c) of section 313 of the Congressional Budget Act of 1974.

(4) Section 313 of the Congressional Budget Act of 1974 is amended—

(A) in subsections (a), (b)(1)(A), and (c), by striking "of the Congressional Budget Act of 1974";

(B) in subsection (a), by striking "(d)" and inserting "(b)";

(C) in subsection (b)(2)(C), by adding "or" at the end thereof;

(D) in subsection (c), by striking "when" and inserting "When";

(E) in subsection (c)(1), by striking "(d)(1)(A) or (d)(1)(D) of section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985" and inserting "(b)(1)(A), (b)(1)(B), (b)(1)(D), (b)(1)(E), or (b)(1)(F)"; and

(F) in subsection (c)(2), by striking "this resolution" and inserting "this subsection".

(5) The table of contents for the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item for section 312 the following new item:

"Sec. 313. Extraneous matter in reconciliation legislation.".

Subtitle C—Social Security

SEC. 13301. OFF-BUDGET STATUS OF OASDI TRUST FUNDS.

(a) EXCLUSION OF SOCIAL SECURITY FROM ALL BUDGETS.—*Notwithstanding any other provision of law, the receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—*

(1) the budget of the United States Government as submitted by the President,

(2) the congressional budget, or

(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) EXCLUSION OF SOCIAL SECURITY FROM CONGRESSIONAL BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following: "The concurrent resolution shall not include the outlays and revenue totals of the old age, survivors, and disability insurance program established under title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.".

SEC. 13302. PROTECTION OF OASDI TRUST FUNDS IN THE HOUSE OF REPRESENTATIVES.

(a) IN GENERAL.—It shall not be in order in the House of Representatives to consider any bill or joint resolution, as reported, or any amendment thereto or conference report thereon, if, upon enactment—

(1)(A) such legislation under consideration would provide for a net increase in OASDI benefits of at least 0.02 percent of the present value of future taxable payroll for the 75-year period utilized in the most recent annual report of the Board of Trustees provided pursuant to section 201(c)(2) of the Social Security Act, and (B) such legislation under consideration does not provide at least a net increase, for such 75-year period, in OASDI taxes of the amount by which the net increase in such benefits exceeds 0.02 percent of the present value of future taxable payroll for such 75-year period,

(2)(A) such legislation under consideration would provide for a net increase in OASDI benefits (for the 5-year estimating period for such legislation under consideration), (B) such net increase, together with the net increases in OASDI benefits resulting from previous legislation enacted during that fiscal year or any of the previous 4 fiscal years (as estimated at the time of enactment) which are attributable to those portions of the 5-year estimating periods for such previous legislation that fall within the 5-year estimating period for such legislation under consideration, exceeds $250,000,000, and (C) such legislation under consideration does not provide at least a net increase, for the 5-year estimating period for such legislation under consideration, in OASDI taxes which, together with net increases in OASDI taxes resulting from such previous legislation which are attributable to those portions of the 5-year estimating periods for such previous legislation that fall within the 5-year estimating period for such legislation under consideration, equals the amount by which the net increase derived under subparagraph (B) exceeds $250,000,000;

(3)(A) such legislation under consideration would provide for a net decrease in OASDI taxes of at least 0.02 percent of the present value of future taxable payroll for the 75-year period utilized in the most recent annual report of the Board of Trustees provided pursuant to section 201(c)(2) of the Social Security Act, and (B) such legislation under consideration does not provide at least a net decrease, for such 75-year period, in OASDI benefits of the amount by which the net decrease in such taxes

exceeds 0.02 percent of the present value of future taxable payroll for such 75-year period, or

(4)(A) such legislation under consideration would provide for a net decrease in OASDI taxes (for the 5-year estimating period for such legislation under consideration), (B) such net decrease, together with the net decreases in OASDI taxes resulting from previous legislation enacted during that fiscal year or any of the previous 4 fiscal years (as estimated at the time of enactment) which are attributable to those portions of the 5-year estimating periods for such previous legislation that fall within the 5-year estimating period for such legislation under consideration, exceeds $250,000,000, and (C) such legislation under consideration does not provide at least a net decrease, for the 5-year estimating period for such legislation under consideration, in OASDI benefits which, together with net decreases in OASDI benefits resulting from such previous legislation which are attributable to those portions of the 5-year estimating periods for such previous legislation that fall within the 5-year estimating period for such legislation under consideration, equals the amount by which the net decrease derived under subparagraph (B) exceeds $250,000,000.

(b) APPLICATION.—In applying paragraph (3) or (4) of subsection (a), any provision of any bill or joint resolution, as reported, or any amendment thereto, or conference report thereon, the effect of which is to provide for a net decrease for any period in taxes described in subsection (c)(2)(A) shall be disregarded if such bill, joint resolution, amendment, or conference report also includes a provision the effect of which is to provide for a net increase of at least an equivalent amount for such period in medicare taxes.

(c) DEFINITIONS.—For purposes of this subsection:

(1) The term "OASDI benefits" means the benefits under the old-age, survivors, and disability insurance programs under title II of the Social Security Act.

(2) The term "OASDI taxes" means—

(A) the taxes imposed under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1986, and

(B) the taxes imposed under chapter 1 of such Code (to the extent attributable to section 86 of such Code).

(3) The term "medicare taxes" means the taxes imposed under sections 1401(b), 3101(b), and 3111(b) of the Internal Revenue Code of 1986.

(4) The term "previous legislation" shall not include legislation enacted before fiscal year 1991.

(5) The term "5-year estimating period" means, with respect to any legislation, the fiscal year in which such legislation becomes or would become effective and the next 4 fiscal years.

(6) No provision of any bill or resolution, or any amendment thereto or conference report thereon, involving a change in chapter 1 of the Internal Revenue Code of 1986 shall be treated as affecting the amount of OASDI taxes referred to in paragraph (2)(B) unless such provision changes the income tax treatment of OASDI benefits.

SEC. 13303. SOCIAL SECURITY FIREWALL AND POINT OF ORDER IN THE SENATE.

(a) CONCURRENT RESOLUTION ON THE BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting a semicolon; and by adding after paragraph (5) the following new paragraphs:

"(6) For purposes of Senate enforcement under this title, outlays of the old-age, survivors, and disability insurance program established under title II of the Social Security Act for the fiscal year of the resolution and for each of the 4 succeeding fiscal years; and

"(7) For purposes of Senate enforcement under this title, revenues of the old-age, survivors, and disability insurance program established under title II of the Social Security Act (and the related provisions of the Internal Revenue Code of 1986) for the fiscal year of the resolution and for each of the 4 succeeding fiscal years.".

(b) POINT OF ORDER.—Section 301(i) of the Congressional Budget Act of 1974 is amended to read as follows:

"(i) It shall not be in order in the Senate to consider any concurrent resolution on the budget as reported to the Senate that would decrease the excess of social security revenues over social security outlays in any of the fiscal years covered by the concurrent resolution. No change in chapter 1 of the Internal Revenue Code of 1986 shall be treated as affecting the amount of social security revenues unless such provision changes the income tax treatment of social security benefits.".

(c) COMMITTEE ALLOCATIONS.—

(1) Section 302(a)(2) of the Congressional Budget Act of 1974 is amended by inserting after "appropriate levels of" the following: "social security outlays for the fiscal year of the resolution and for each of the 4 succeeding fiscal years,".

(2) Section 302(f)(2) of the Congressional Budget Act of 1974 is amended by inserting before the period the following: "or provides for social security outlays in excess of the appropriate allocation of social security outlays under subsection (a) for the fiscal year of the resolution or for the total of that year and the 4 succeeding fiscal years".

(3) Section 302(f)(2) of such Act is further amended by adding at the end the following: "In applying this paragraph—

"(A) estimated social security outlays shall be deemed to be reduced by the excess of estimated social security revenues (including social security revenues provided for in the bill, resolution, amendment, or conference report with respect to which this paragraph is applied) over the appropriate level of social security revenues specified in the most recently adopted concurrent resolution on the budget;

"(B) estimated social security outlays shall be deemed increased by the shortfall of estimated social security revenues (including social security revenues provided for in the bill, resolution, amendment, or conference report with respect to which this paragraph is applied) below the appro-

priate level of social security revenues specified in the most recently adopted concurrent resolution on the budget; and

"(C) no provision of any bill or resolution, or any amendment thereto or conference report thereon, involving a change in chapter 1 of the Internal Revenue Code of 1986 shall be treated as affecting the amount of social security revenues unless such provision changes the income tax treatment of social security benefits.

The Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under subsection (a) and revised functional levels and aggregates to reflect the application of the preceding sentence. Such revised allocations, functional levels, and aggregates shall be considered as allocations, functional levels, and aggregates contained in the most recently agreed to concurrent resolution on the budget, and the appropriate committees shall report revised allocations pursuant to subsection (b).".

(d) POINT OF ORDER UNDER SECTION 311.—(1) Subsection (a) of section 311(a) of the Congressional Budget Act of 1974 is redesignated as subsection (a)(1) and paragraphs (1), (2), and (3) are redesignated as subparagraphs (A), (B), and (C).

(2) Section 311(a) of such Act is amended by inserting at the end the following new paragraph:

"(2)(A) After the Congress has completed action on a concurrent resolution on the budget, it shall not be in order in the Senate to consider any bill, resolution, amendment, motion, or conference report that would cause the appropriate level of total new budget authority or total budget outlays or social security outlays set forth for the first fiscal year in the most recently agreed to concurrent resolution on the budget covering such fiscal year to be exceeded, or would cause revenues to be less than the appropriate level of total revenues (or social security revenues to be less than the appropriate level of social security revenues) 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 concurrent resolution.

"(B) In applying this paragraph—

"(i)(I) estimated social security outlays shall be deemed to be reduced by the excess of estimated social security revenues (including those provided for in the bill, resolution, amendment, or conference report with respect to which this subsection is applied) over the appropriate level of Social Security revenues specified in the most recently agreed to concurrent resolution on the budget;

"(II) estimated social security revenues shall be deemed to be increased to the extent that estimated social security outlays are less (taking into account the effect of the bill, resolution, amendment, or conference report to which this subsection is being applied) than the appropriate level of social security outlays in the most recently agreed to concurrent resolution on the budget; and

"(ii)(I) estimated Social Security outlays shall be deemed to be increased by the shortfall of estimated social security revenues (including Social Security revenues provided for in the bill, resolution, amendment, or conference report with

respect to which this subsection is applied) below the appropriate level of social security revenues specified in the most recently adopted concurrent resolution on the budget; and

"(II) estimated social security revenues shall be deemed to be reduced by the excess of estimated social security outlays (including social security outlays provided for in the bill, resolution, amendment, or conference report with respect to which this subsection is applied) above the appropriate level of social security outlays specified in the most recently adopted concurrent resolution on the budget; and

"(iii) no provision of any bill or resolution, or any amendment thereto or conference report thereon, involving a change in chapter 1 of the Internal Revenue Code of 1986 shall be treated as affecting the amount of social security revenues unless such provision changes the income tax treatment of social security benefits.

The chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under section 302(a) and revised functional levels and aggregates to reflect the application of the preceding sentence. Such revised allocations, functional levels, and aggregates shall be considered as allocations, functional levels, and aggregates contained in the most recently agreed to concurrent resolution on the budget, and the appropriate committees shall report revised allocations pursuant to section 302(b)."

SEC. 13304. REPORT TO THE CONGRESS BY THE BOARD OF TRUSTEES OF THE OASDI TRUST FUNDS REGARDING THE ACTUARIAL BALANCE OF THE TRUST FUNDS.

Section 201(c) of the Social Security Act (42 U.S.C. 401(c)) is amended by inserting after the first sentence following clause (5) the following new sentence: "Such statement shall include a finding by the Board of Trustees as to whether the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, individually and collectively, are in close actuarial balance (as defined by the Board of Trustees).".

SEC. 13305. EXERCISE OF RULEMAKING POWER.

This title and the amendments made by it are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as a part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

SEC. 13306. EFFECTIVE DATE.

Sections 13301, 13302, and 13303 and any amendments made by such sections shall apply with respect to fiscal years beginning on or after October 1, 1990. Section 13304 shall be effective for annual reports of the Board of Trustees issued in or after calendar year 1991.

Subtitle D—Treatment of Fiscal Year 1991 Sequestration

SEC. 13401. RESTORATION OF FUNDS SEQUESTERED.

(a) ORDER RESCINDED.—Upon the enactment of this Act, the orders issued by the President on August 25, 1990, and October 15, 1990, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 are hereby rescinded.

(b) AMOUNTS RESTORED.—Any action taken to implement the orders referred to in subsection (a) shall be reversed, and any sequestrable resource that has been reduced or sequestered by such orders is hereby restored, revived, or released and shall be available to the same extent and for the same purpose as if the orders had not been issued.

(c) FURLOUGHED EMPLOYEES.—(1) Federal employees furloughed as a result of the lapse in appropriations from midnight October 5, 1990, until the enactment of House Joint Resolution 666 shall be compensated at their standard rate of compensation for the period during which there was a lapse in appropriations.

(2) All obligations incurred in anticipation of the appropriations made and authority granted by House Joint Resolution 666 for the purposes of maintaining the essential level of activity to protect life and property and bringing about orderly termination of government functions are hereby ratified and approved if otherwise in accord with the provisions of that Act.

Subtitle E—Government-sponsored Enterprises

SEC. 13501. FINANCIAL SAFETY AND SOUNDNESS OF GOVERNMENT-SPONSORED ENTERPRISES.

(a) DEFINITION.—For purposes of this section, the terms "Government-sponsored enterprise" and "GSE" mean the Farm Credit System (including the Farm Credit Banks, Banks for Cooperatives, and Federal Agricultural Mortgage Corporation), the Federal Home Loan Bank System, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, and the Student Loan Marketing Association.

(b) TREASURY DEPARTMENT STUDY AND PROPOSED LEGISLATION.—

(1) The Department of the Treasury shall prepare and submit to Congress no later than April 30, 1991, a study of GSEs and recommended legislation.

(2) The study shall include an objective assessment of the financial soundness of GSEs, the adequacy of the existing regulatory structure for GSEs, the financial exposure of the Federal Government posed by GSEs, and the effects of GSE activities on Treasury borrowing.

(c) CONGRESSIONAL BUDGET OFFICE STUDY.—

(1) The Congressional Budget Office shall prepare and submit to Congress no later than April 30, 1991, a study of GSEs.

(2) The study shall include an analysis of the financial risks each GSE assumes, how Congress may improve its understanding of those risks, the supervision and regulation of GSEs' risk

management, the financial exposure of the Federal Government posed by GSEs, and the effects of GSE activities on Treasury borrowing. The study shall also include an analysis of alternative models for oversight of GSEs and of the costs and benefits of each alternative model to the Government and to the markets and beneficiaries served by GSEs.

(d) ACCESS TO RELEVANT INFORMATION.—

(1) For the studies required by this section, each GSE shall provide full and prompt access to the Secretary of the Treasury and the Director of the Congressional Budget Office to its books and records and other information requested by the Secretary of the Treasury or the Director of the Congressional Budget Office.

(2) In preparing the studies required by this section, the Secretary of the Treasury and the Director of the Congressional Budget Office may request information from, or the assistance of, any Federal department or agency authorized by law to supervise the activities of a GSE.

(e) CONFIDENTIALITY OF RELEVANT INFORMATION.—

(1) The Secretary of the Treasury and the Director of the Congressional Budget Office shall determine and maintain the confidentiality of any book, record, or information made available by a GSE under this section in a manner consistent with the level of confidentiality established for the material by the GSE involved.

(2) The Department of the Treasury shall be exempt from section 552 of title 5, United States Code, for any book, record, or information made available under subsection (d) and determined by the Secretary of the Treasury to be confidential under this subsection.

(3) Any officer or employee of the Department of the Treasury shall be subject to the penalties set forth in section 1906 of title 18, United States Code, if—

(A) by virtue of his or her employment or official position, he or she has possession of or access to any book, record, or information made available under and determined to be confidential under this section; and

(B) he or she discloses the material in any manner other than—

(i) to an officer or employee of the Department of the Treasury; or

(ii) pursuant to the exception set forth in such section 1906.

(4) The Congressional Budget Office shall be exempt from section 203 of the Congressional Budget Act of 1974 with respect to any book, record, or information made available under this subsection and determined by the Director to be confidential under paragraph (1).

(f) REQUIREMENT TO REPORT LEGISLATION.—(1) The committees of jurisdiction in the House shall prepare and report to the House no later than September 15, 1991, legislation to ensure the financial soundness of GSEs and to minimize the possibility that a GSE might require future assistance from the Government.

(2) It is the sense of the Senate that the committees of jurisdiction in the Senate shall prepare and report to the Senate no later than

September 15, 1991, legislation to ensure the financial safety and soundness of GSEs and to minimize the possibility that a GSE might require future assistance from the Government.

(f) PRESIDENT'S BUDGET.—The President's annual budget submission shall include an analysis of the financial condition of the GSEs and the financial exposure of the Government, if any, posed by GSEs.

And the Senate agree to the same.

From the Committee on the Budget, for consideration of the House bill, and the Senate amendment, and modifications committed to conference, and as exclusive conferees with respect to any proposal to report in total disagreement:

LEON E. PANETTA,
RICHARD GEPHARDT,
BILL FRENZEL,

As additional conferees from the Committee on the Budget, for consideration of title XIV of the House bill, and all other provisions of the House bill and the Senate amendment on which conferees from more than one of the other standing committees of the House are appointed, and modifications committed to conference:

ED JENKINS,

From the Committee on Agriculture, for consideration of title I and subtitle B of title V of the House bill, and title I and subtitle A of title IV of the Senate amendment, and modifications committed to conference:

E DE LA GARZA,
JERRY HUCKABY,
TOM COLEMAN,

From the Committee on Banking, Finance and Urban Affairs, for consideration of title II of the House bill, and title II of the Senate amendment, and modifications committed to conference:

HENRY GONZALEZ,
MARY ROSE OAKAR,
CHALMERS P. WYLIE,

From the Committee on Education and Labor, for consideration of title III and sections 12403 and 13323 of the House bill, and subtitle F of title VI, part 4 of subtitle D of title VII, title X, and section 6401 of the Senate amendment, and modifications committed to conference:

GUS HAWKINS,
WILLIAM D. FORD,

From the Committee on Energy and Commerce (health) for consideration of subtitles A and B of title IV and subtitles B, C, and D of title XII of the House bill, and part 2 of subtitle B and subtitle C of title VI of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
HENRY A. WAXMAN,
NORMAN F. LENT,

From the Committee on Energy and Commerce (transportation), for consideration of sections 4511, 4521, and 4522 of the House bill, and sections 3002 and 3003 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
THOMAS A. LUKEN,
NORMAN F. LENT,

From the Committee on Energy and Commerce (energy), for consideration of sections 4501, 4502, 5101, and 10002 of the House bill, and subtitle B of title IV and section 502 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
PHILIP R. SHARP,
NORMAN F. LENT,

From the Committee on Government Operations, for consideration of part 1 of subtitle A and subtitles B through E (except section 14302) of title XIV of the House bill, and corresponding provisions of the Senate amendment, and modifications committed to conference:

JOHN CONYERS, Jr.,
HENRY A. WAXMAN,
BARNEY FRANK,
HOWARD C. NIELSON,

From the Committee on Interior and Insular Affairs, for consideration of title V and sections 4502 and 10002 of the House bill, and subtitles A and B of title IV and section 502 of the Senate amendment, and modifications committed to conference:

MORRIS K. UDALL,
GEORGE MILLER,

From the Committee on the Judiciary, for consideration of title VI of the House bill, and title IX of the Senate amendment, and modifications committed to conference:

JACK BROOKS,
BOB KASTENMEIER,
CARLOS J. MOORHEAD,

From the Committee on Merchant Marine and Fisheries (tonnage duties, coast guard fees, and cargo preference), for consideration of sections 7101 and 7102 of the House bill, and section 3001 of the Senate amendment, and modifications committed to conference:

WALTER B. JONES,
BILLY TAUZIN,

From the Committee on Merchant Marine and Fisheries (EPA fees), for consideration of section 7103 of the House bill, and modifications committed to conference:

WALTER B. JONES,
GERRY E. STUDDS,
ROBERT W. DAVIS,

From the Committee on Merchant Marine and Fisheries (coastal zone management), for consideration of subtitle B of title VII of the House bill, and modifications committed to conference:

WALTER B. JONES,
DENNIS M. HERTEL,
ROBERT W. DAVIS,

From the Committee on Post Office and Civil Service, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference:

BENJAMIN A. GILMAN,

From the Committee on Public Works and Transportation (aviation) for consideration of subtitles B and C of title IX of the House bill, and subtitle B of title III of the Senate amendment, and modifications committed to conference:

GLENN M. ANDERSON,
JAMES L. OBERSTAR,
JOHN PAUL HAMMERSCHMIDT,

From the Committee on Public Works and Transportation (transportation trust funds), for consideration of subtitle A of title IX of the House bill, and modifications committed to conference:

GLENN M. ANDERSON,
NORMAN Y. MINETA,
JOHN PAUL HAMMERSCHMIDT,

From the Committee on Public Works and Transportation (EPA fees), for consideration of subtitle D of title IX of the House bill, and modifications committed to conference:

GLENN M. ANDERSON,
HENRY J. NOWAK,
JOHN PAUL HAMMERSCHMIDT,

From the Committee on Rules, for consideration of part 2 of subtitle A of title XIV and section 14302 of the House bill, and corresponding provisions of the Senate amendment, and modifications committed to conference:

JOHN MOAKLEY,
BUTLER DERRICK,
ANTHONY C. BEILENSON,
MARTIN FROST,
JAMES H. QUILLEN,
CHARLES PASHAYAN, Jr.,

From the Committee on Science, Space, and Technology, for consideration of title X of the House bill, and subtitle B of title IV and sections 3004 and 3024 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
MARILYN LLOYD,

From the Committee on Veterans' Affairs, for consideration of title XI (except section 11051) of the House bill, and title XI of the Senate amendment, and modifications committed to conference:

G.V. MONTGOMERY,
DOUGLAS APPLEGATE,
BOB STUMP,

From the Committee on Ways and Means (revenues and debt ceiling), for consideration of title XIII, subtitles E and F of title XII, and sections 3102, 3121, 7101, and 11051(a) of

the House bill, and title VII (except subtitle C), and subtitles D and E of title VI of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,

From the Committee on Ways and Means (medicare), for consideration of subtitles A through D of title XII and subtitle A of title IV of the House bill, and subtitle B of title VI of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,

From the Committee on Ways and Means (Social Security), for consideration of part 5 of subtitle A of title VI of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
ANDREW JACOBS, Jr.,

From the Committee on Ways and Means (child care and human resources), for consideration of parts 1 through 4 of subtitle A and subtitle F of title VI and subtitle C of title VII of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
THOMAS J. DOWNEY,

As an additional conferee for consideration of subtitle B of title V of the House bill, and subtitle A of title IV of the Senate amendment, and modifications committed to conference:

R.J. MRAZEK,

As additional conferees for consideration of part 1 of subtitle A and subtitles B through E (except section 14302) of title XIV of the House bill, and corresponding provisions of the Senate amendment, and modifications committed to conference:

SILVIO O. CONTE,

As additional conferees for consideration of part 2 of subtitle A of title XIV and section 14302 of the House bill, and corresponding provisions of the Senate amendment, and modifications committed to conference:

CARL D. PURSELL,
Managers on the Part of the House.

From the Committee on Agriculture, Nutrition, and Forestry:

PATRICK J. LEAHY,
DAVID PRYOR,
RICHARD G. LUGAR,
BOB DOLE,
THAD COCHRAN,

From the Committee on Banking, Housing, and Urban Affairs:

DON RIEGLE,
ALAN CRANSTON,
CHRISTOPHER J. DODD,

From the Committee on the Budget:
JIM SASSER,
PETE V. DOMENICI,
From the Committee on Commerce, Science, and Transportation:
DANIEL K. INOUYE,
WENDELL FORD,
JOHN BREAUX,
JOHN D. ROCKEFELLER IV,
JOHN C. DANFORTH,
BOB PACKWOOD,
TED STEVENS,
From the Committee on Energy and Natural Resources:
J. BENNETT JOHNSTON,
DALE BUMPERS,
WENDELL FORD,
JAMES A. MCCLURE,
PETE V. DOMENICI,
From the Committee on Environment and Public Works:
QUENTIN N. BURDICK,
DANIEL PATRICK MOYNIHAN,
GEORGE MITCHELL,
MAX BAUCUS,
BOB GRAHAM,
JOHN H. CHAFEE,
From the Committee on Finance:
LLOYD BENTSEN,
DANIEL PATRICK MOYNIHAN,
D.L. BOREN,
GEORGE MITCHELL,
DAVID PRYOR,
JOHN D. ROCKEFELLER IV,
BOB PACKWOOD,
BOB DOLE,
JOHN C. DANFORTH,
JOHN H. CHAFEE,
From the Committee on Governmental Affairs:
JOHN GLENN,
JIM SASSER,
DAVID PRYOR,
From the Committee on the Judiciary:
DENNIS DECONCINI,
PATRICK LEAHY,
ORRIN HATCH,
From the Committee on Labor and Human Resources for the Child Care and Development Block Grant Act:
EDWARD M. KENNEDY,
CHRISTOPHER J. DODD,
ORRIN G. HATCH,
From the Committee on Labor and Human Resources:
EDWARD M. KENNEDY,
CLAIBORNE PELL,
HOWARD M. METZENBAUM,
CHRISTOPHER J. DODD,

From the Committee on Labor and Human Resources for pension provisions (reversions and retiree health transfers):

EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,

From the Committee on Veterans' Affairs:

ALAN CRANSTON,
DENNIS DECONCINI,
JOHN D. ROCKEFELLER IV,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5835) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1991, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE IV—MEDICARE/MEDICAID

Parts A and B

2. Extension of Secondary Payer Provisions (Sections 12202, 4121, and 4122(b) of the House bill; Section 6152 of the Senate amendment)

Present law

(a) Extension of Transfer of Data.—Medicare is a secondary payer under specified circumstances when Medicare beneficiaries are covered by other third party payers. Medicare is secondary payer to automobile, medical, no-fault and liability insurance. In addition, Medicare is secondary payer to certain employer group health plans for items and services provided to aged and disabled beneficiaries, and to end-stage renal disease (ESRD) beneficiaries during the first 12 months of a beneficiary's entitlement to Medicare on the basis of ESRD.

The Department of Health and Human Services (HHS) identifies Medicare secondary payer cases in the following ways: beneficiary questionnaires; provider identification of third party coverage when services are provided; Medicare contractor screening and data collection and exchange; and data transfers with other Federal and State agencies.

As a result of changes made in OBRA 1989 (P.L. 101-239), HHS is provided a 2-year period for matching Internal Revenue Service (IRS) tax records to records of the Social Security Administration (SSA) and the Health Care Financing Administration (HCFA) to identify working beneficiaries and their spouses to improve the identification and collection of Medicare secondary payer cases. Medicare contractors are required to use this new information to contact employers to determine whether the employer provided health coverage, during what time period, and the nature of such coverage. Employers are required to respond to such inquiries within 30 days.

Current restrictions on the disclosure of information under the Internal Revenue Code and the Privacy Act also apply to the new information provided by SSA and IRS to HCFA.

The present law requirement that employers respond to inquiries from Medicare contractors about employer coverage of beneficiaries and their spouses expires for inquiries made after September 30, 1991. In addition, the present law requirement that 1) the Treasury

Secretary respond to requests from SSA to disclose IRS taxpayer identification information about Medicare beneficiaries and their spouses, and 2) SSA respond to requests from HCFA to disclose such information expires for requests made after September 30, 1991. The Treasury Secretary is not required to respond to requests made before September 30, 1991, for information relating to 1990 or thereafter, and SSA is not required to respond to requests made before September 30, 1991, for information relating to 1991 or thereafter.

(b) Extension of Application to Disabled Beneficiaries.—OBRA 1986 (P.L. 99-509) required that Medicare be the secondary payer for disabled Medicare beneficiaries who are covered by a "large group health plan" for items and services furnished on or after January 1, 1987, and before January 1, 1992. "Large group health plan" is defined as an employer or employee organization plan of an employer that employs at least 100 employees. This provision expires January 1, 1992.

(c) Extension of Renal Disease Period.—Medicare is the secondary payer, for a 12-month period, for beneficiaries who are entitled to Medicare solely on the basis of end-stage renal disease and who are covered by an employer-based group health plan. The 12-month period begins with the earlier of 1) the month in which the individual initiates a regular course of renal dialysis, or 2) the month in which an individual who receives a kidney transplant could become entitled to Medicare.

A technical aspect of the law effectively limits Medicare's secondary status to the first 9 months of an individual's Medicare entitlement. This is because entitlement to Medicare as an ESRD beneficiary begins with the third month after the month in which a regular course of dialysis is initiated (except in the case of kidney transplant recipients), while the law requires employer plans to be primary for the 12-month period beginning with the month dialysis is initiated.

(d) Prohibiting Certain Employer Marketing Activities.—No provision.

House bill

(a) Extension of Transfer of Data.—

Section 12202. Amends the Social Security Act to extend through September 30, 1995, the requirement that employers must respond to inquiries from Medicare contractors about employer coverage of beneficiaries and their spouses. Amends the Internal Revenue Code to extend through September 30, 1995, the requirement that the Treasury and SSA respond to requests concerning taxpayer information. For requests made before September 30, 1995, provides that the Treasury would not be required to respond to requests for information for 1994 and thereafter, and SSA would not be required to respond to requests for information relating to 1995 or thereafter.

Section 4121. Amends the Social Security Act to eliminate the September 30, 1991 sunset of the requirement that employers must respond to inquiries from Medicare contractors.

(b) Extension of Application to Disabled Beneficiaries.

Section 12202. Amends the Social Security Act to extend the application of this provision to items and services furnished before October 1, 1995.

Section 4121. Eliminates the January 1, 1992 sunset of this provision.

(c) Extension of Renal Disease Period.—

Section 12202. No provision.

Section 4121. Extends the period during which employer-based health coverage is the primary payer for ESRD beneficiaries from 12 to 18 months.

(d) Prohibiting Certain Employer Marketing Activities.—

Section 12202. No provision.

Section 4122(b). Provides that it would be unlawful for an employer or other entity to offer any financial or other incentive for an individual not to enroll (or to terminate enrollment) under a group health plan which would (in case of such enrollment) be a primary plan, unless such incentive is also offered to all individuals who are eligible for coverage under the plan.

Provides that entity that violates this requirement would be subject to a civil money penalty of not to exceed $5,000 for each such violation. Provides that certain provisions of Section 1128A of the Social Security Act would apply to the civil money penalty.

Effective date:

Section 12202.—Enactment, except (a) related to requests made of the Treasury would apply to requests made on or after enactment.

Sections 4121 and 4122(b). Enactment, except (c) applies to group health plans for plan years beginning on or after January 1, 1991, and (d) applies to incentives offered on or after enactment.

Senate amendment

(a) Extension of Transfer of Data.—Identical to Section 12202.

(b) Extension of Application to Disabled Beneficiaries.—Identical to Section 12202.

(c) Extension of Renal Disease Period.—Extends the period during which employer-based group health coverage is the primary payer from 12 months to 24 months. Provides that this provision would be effective for items and services furnished on or after February 1, 1991 and before January 1, 1996 (with respect to periods beginning on or after February 1, 1990).

Revises current law to provide that (1) employer-based group health plans would be primary to Medicare during the 24-month period that begins with the first month in which the individual becomes entitled to Medicare benefits on the basis of ESRD, and (2) such plans would not be prohibited from being secondary payer during a period occurring before or after this 24-month period.

Requires the Comptroller General to study and report to the Committees on Ways and Means, Energy and Commerce, and Finance on the impact of the extension to 24 months on individuals eligible for Medicare on the basis of ESRD. Requires the report to include information relating to:

(1) the number and geographic distribution of such individuals for whom Medicare is secondary;

(2) the amount of savings to Medicare achieved annually from this provision;

(3) the effect on access to employment, and employ-based health insurance, for such individuals and their family members (including coverage by employment-based health insurance of Medicare's cost-sharing requirements after employment-based insurance becomes secondary); and

(4) the effect on the amount paid for each dialysis treatment under employment-based health insurance; and

(5) the effect on cost-sharing requirements under employment-based health insurance (and on out-of-pocket expenses of such individuals) during the period for which Medicare is secondary.

Requires the Comptroller General to submit a preliminary report not later than January 1, 1993, and a final report not later than January 1, 1995.

(d) Prohibiting Certain Employer Marketing Activities.—No provision.

Effective date: Enactment, except the provisions in (a) relating to requests made of the Treasury would apply to requests made on or after enactment; those in (c) extending the employer's primary period for ESRD beneficiaries from 12 to 24 months, and starting the period with the first month in which the individual becomes entitled to Medicare benefits on the basis of ESRD—would apply to periods beginning on or after February 1, 1990; those in (c) making employer plans primary for ESRD beneficiaries would be effective January 1, 1992 for beneficiaries whose employers have 1,000 or more employees, January 1, 1993 for beneficiaries whose employers have 100 or more employees, and January 1, 1994 for all other beneficiaries.

Conference agreement

2. Extension of Secondary Payer Provisions

(a) Extension of Transfer of Data.—The conference agreement includes the House bill.

(b) Extension of Application to Disabled Beneficiaries.—The conference agreement includes the House bill.

(c) Extension of Renal Disease Period.—The conference agreement includes the Senate amendment, with an amendment that the period during which employer-based health coverage would be the primary payer for ESRD beneficiaries is 18 months.

(d) Prohibiting Certain Employer Marketing Activities.—The conference agreement includes the House bill.

1. Part B Premium (Sections 12301 and 4201 of House bill; Section 6161 of Senate amendment)

Present law

Part B is a voluntary program financed by premiums paid by aged, disabled and chronic renal disease enrollees and by general revenues of the Federal Government. The premium rate is derived annually based partly upon the projected costs of the program for the coming year. The revised premium rate takes effect on January 1 of each year which coincides with the date for the annual Social Security cash benefit cost-of-living adjustment (COLA).

Ordinarily, the premium rate is the lower of (1) an amount sufficient to cover one-half of the costs of the program for the aged; or (2) the current premium amount increased by the percentage by

which cash benefits were increased under the COLA provisions of the Social Security program.

From 1984 through 1990, the premium was set at 25 percent of program costs for aged beneficiaries. The remaining 75 percent was covered by general revenues. In CY 1990, the basic Part B premium is $28.60. In CY 1991, the calculation of the Part B premium is slated to revert to the earlier calculation method.

A special provision applies to low-income persons who have their premiums deducted from their social security checks. If there is a social security COLA that is less than the premium increase, the premium increase otherwise applicable is reduced to prevent a reduction in the individual's social security check.

House bill

Section 12301. Establishes the monthly Part B premium as follows:

1991	$29.90
1992	$31.70
1993	$36.50
1994	$41.20
1995	$46.20

Section 4201. Retains, for 1991, the current law provision which provides for the calculation to return to the COLA calculation. An additional $1 is added to this calculation.

Provides that for 1992–1995, the 25 percent rule is reinstated.

Effective date:

Section 12301. Applies to premiums beginning January 1, 1991.

Section 4201. Enactment.

Senate amendment

Retains, for 1991 and 1992 the current law provision which provides for the calculation to return to the COLA calculation.

Provides that for 1993–1995, the 25 percent rule is reinstated.

Effective date: Enactment.

Conference agreement

The conference agreement includes Section 12301 of the House bill with an amendment setting the Part B premium at $29.90 for 1991, $31.80 in 1992, $36.60 in 1993, $41.10 in 1994, and $46.10 in 1995.

3. Computer Matching and Privacy Provisions. (Section 4403 of the House bill.)

Present law

A Federal or other agency participating in a program for computer matching of data about individuals may not deny, terminate, or reduce an individual's benefits under any Federal program on the basis of data obtained through that program (such as data about income and assets) unless the data have been independently verified and the individual has been notified and given an opportunity to contest the finding.

House bill

Provides that an adverse action may be taken on the basis of data that have not been independently verified when the data

relate to payments made under a Federal benefits program and the agency's Data Integrity Board (or, in the case of a non-Federal agency, the Board of the Federal agency issuing the payment) determines that the information is limited to information about the Federal payments and there is a high degree of confidence that it is accurate. Requires that this determination be made in accordance with guidelines to be published by the Director of the Office of Management and Budget (OMB) within 90 days after enactment. Provides that data supplied by Federal agencies administering the AFDC, Medicaid, and Food Stamp programs is exempt from the requirement that the Board certify to a "high degree of confidence" until the earlier of the date the agency's Board determines that there is not a high degree of confidence or 30 days after the publication of the OMB guidelines.

Effective date: Enactment.

Senate amendment

No provision.

Conference agreement

3. Computer Matching and Privacy Provision.—The conference agreement does not include the House bill.

4. Protection of Low-Income Medicare Beneficiaries. (Section 4411 of the House bill, section 6221 of the Senate amendment.)

Present law

(a) Extending Medicaid Payment for Medicare Premiums for Certain Individuals.—The Medicare Catastrophic Coverage Act of 1988 required States to pay Medicare premiums, deductibles, and coinsurance for "qualified Medicare beneficiaries" (QMBs), those whose family incomes are below 100 percent of the Federal poverty level and whose resources are no more than twice the amount allowed under SSI. The requirement is being phased in on a timetable that ends January 1, 1992, or January 1, 1993 in section 209(b) States that use more restrictive income limits for Medicaid than for SSI. For calendar year 1991, States are required to cover individuals up to 95 percent of the poverty level, or 90 percent in the section 209(b) States. States have the option of accelerating coverage of individuals up to 100 percent of the poverty level. OBRA 1986 also gave States the option of providing full Medicaid coverage (not just Medicare cost-sharing) to elderly and disabled persons with incomes up to 100 percent of the poverty level. The Federal contribution to payments for QMBs is made at the standard matching rate, which ranges from 50 to 83 percent depending on the State's per capita income.

(b) Disregard of Cost-of-Living Adjustments.—Whether an individual is determined to be a QMB depends on whether his or her income is less than a specified percentage of the Federal poverty level. Cost-of-living adjustments (COLAs) for cash benefits under Title II of the Social Security Act become effective on January 1 of a calendar year. The Federal poverty levels for a year are not updated until the middle of February of that year. As a result of this lag, an individual with income near (but below) the maximum

income level for QMBs for a year may lose eligibility in the following year until the new poverty levels are issued; new applicants with similar incomes may be denied coverage during the same interval.

House bill

(a) Extending Medicaid Payment for Medicare Premiums for Certain Individuals.—Requires all States (including States operating a medical assistance program under a demonstration waiver) to extend QMB coverage to otherwise qualified Medicare beneficiaries with incomes up to 125 percent of the Federal poverty level. Provides for 100 percent Federal matching for additional expenditures resulting from this requirement.

(b) Disregard of Cost-of-Living Adjustments.—Provides that, until the month following the month in which revised poverty guidelines are issued, income attributable to the COLA adjustment is to be excluded in determining eligibility for a QMB, or for an elderly or disabled individual receiving full Medicaid coverage under the OBRA 1986 option.

Effective date: (a) Applies to calendar quarters beginning on or after January 1, 1991, regardless of whether implementing regulations have been promulgated by that date. (b) Applies to determinations of income for months beginning with January 1, 1991.

Senate amendment

(a) Extending Medicaid Payment for Medicare Premiums for Certain Individuals.—Requires States to extend QMB coverage to Medicare beneficiaries with incomes up to 100 percent of the Federal poverty level by January 1, 1991. Requires section 209(b) States to extend coverage to individuals with incomes below 95 percent of the poverty level by January 1, 1991, and below 100 percent by January 1, 1992. Permits States to establish a higher income limit, up to 133 percent of the Federal poverty level.

(b) Disregard of Cost-of-Living Adjustments.—Similar provision, except applies to QMBs only.

Effective date: (a) Applies to calendar quarters beginning on or after January 1, 1991. Delay permitted where State legislation required. (b) Applies to determinations of income for months beginning with January 1, 1991.

Conference agreement

4. Protection of Low-Income Medicare Beneficaries.

(a) Extending Medicaid Payment for Medicare Premiums for Certain Individuals.—The conference agreement includes the Senate amendments with an amendment to require all but 5 specified 209(b) States to accelerate current coverage for Medicare cost-sharing for beneficiaries with incomes up to 100 percent of the Federal poverty level by January 1, 1991. Requires States to pay premiums for qualified Medicare beneficiaries with incomes up to 110 percent of the Federal poverty level by January 1, 1993, and to 120 percent by January 1, 1995.

(b) Disregard of Cost-of-Living Adjustments.—The conference agreement follows the House bill with a modification which provides that income attributable to COLA adjustments is to be ex-

cluded in determining eligibility for QMBs during the first 3 months of a calendar year.

TITLE V—INCOME SECURITY, HUMAN RESOURCES, AND RELATED PROGRAMS

I. Subtitle A—Human Resource and Family Policy Amendments

C. Chapter 3—Supplemental Security Income

1. TREATMENT OF VICTIMS' COMPENSATION PAYMENTS

(Section 5031 of the Conference Agreement)

Present law

Under present law, amounts received from victims' assistance funds are included as income or assets for purposes of determining eligibility and benefits for SSI.

House bill

No provision. (H.R. 5828, as reported by the Committee on Ways and Means, includes a provision that excludes from income for purposes of determining SSI eligibility and benefits any payment received from a State-administered victims' compensation fund.

In addition, any amount received from a State victims' compensation fund, to the extent that it represents compensation for expenses incurred or losses suffered as a result of a crime, shall be excluded from resources for the 9-month period beginning after the month in which it was received.

No person awarded victims' compensation, who was otherwise eligible for SSI and who refused to accept such compensation, would be considered ineligible for SSI as a result of such refusal.

The provision would take effect in the month beginning 6 months after the date of enactment.)

Senate amendment

No provision.

Conference agreement

The conference agreement includes the provision contained in H.R. 5828.

2. ELIMINATE THE AGE LIMIT ON SECTION 1619 ELIGIBILITY

(Section 5032 of the Conference Agreement)

Present law

To be eligible for the Medicaid-only benefit under the section 1619 work incentive provisions an individual must be under 65 years old.

House bill

No provision. (H.R. 5828, as reported by the Committee on Ways and Means, includes a provision identical to the Senate amendment.)

Senate amendment (Section 6010 of the Senate amendment)

The provision would eliminate this age limit and would be effective upon enactment.

Conference agreement

The conference agreement follows the Senate amendment, effective with respect to benefits for months beginning on or after the first day of the sixth calendar month following the month of enactment.

3. TREATMENT OF IMPAIRMENT-RELATED WORK EXPENSES

(Section 5033 of the Conference Agreement)

Present law

Impairment-related work expenses (IRWE) are excluded from a disabled individual's earnings for determinations of: (1) whether earnings constitute "substantial gainful activity;" (2) the benefit amount of an eligible disabled individual; and (3) continuing eligibility on the basis of income.

House bill

No provision. (H.R. 5828, as reported by the Committee on Ways and Means, includes a provision identical to the Senate amendment.)

Senate amendment (Section 6011 of the Senate amendment)

The proposal would exclude impairment-related work expenses from income in determining initial eligibility and reeligibility for SSI benefits, and in determining State supplementary payments.

The provision would take effect four months following the month of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

4. TREAT CERTAIN ROYALTIES AND HONORARIA AS EARNED INCOME

(Section 5034 of the Conference Agreement)

Present law

Under present law, royalties received are considered unearned income under the SSI program unless they are from self-employment in a royalty-related trade or business. Honoraria are also considered unearned income. After the first $20 of unearned income in a month is disregarded, this results in a dollar-for-dollar loss of SSI benefits.

House bill

No provision. (H.R. 5828, as reported by the Committee on Ways and Means, includes a provision identical to the Senate amendment.)

Senate amendment (Section 6012 of the Senate amendment)

Any royalty which is earned in connection with the publication of an individual's work, or any honorarium which is received for services rendered would be treated as earned income for purposes of SSI eligibility and benefit determination. This would mean that

income from these sources would be disregarded to the same extent that income from other types of earnings is disregarded (i.e., the first $65 of monthly earnings plus 50 percent of additional earnings).

The effective date for the provision would be the eighteenth month beginning after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment, effective the thirteenth month beginning after the date of enactment.

5. STATE RELOCATION ASSISTANCE NOT COUNTED AS INCOME OR RESOURCES

(Section 5034 of the Conference Agreement)

Present law

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 excludes from income and resources any relocation assistance provided under the Act to individuals receiving Federal assistance, including SSI. Relocation assistance is paid when individuals are required to move by the Government. For example, the Government might need their land for a public building or highway or they might need to move because toxic wastes were discovered on the site. Under SSI, relocation assistance from any other source is considered income in the month received, and resources thereafter.

House bill

No provision. (H.R 5828, as reported by the Committee on Ways and Means, includes a provision to exclude from income and resources State relocation assistance.

The provision would take effect in the month beginning 6 months after the date of enactment.)

Senate amendment

No provision.

Conference agreement

The conference agreement includes the provision contained in H.R. 5828, modified to provide that State relocation assistance payments will be excluded from resources for no more than 9 months. In addition, the provision would be in effect for only three years.

6. EVALUATION OF CHILD'S DISABILITY BY PEDIATRICIANS

(Section 5036 of the Conference Agreement)

Present law

Present law does not require that a pediatrician or other qualified specialist be involved in the evaluation of a child's disability case.

House bill

No provision. (H.R. 5828, as reported by the Committee on Ways and Means, includes a provision identical to the Senate amendment.)

Senate amendment (Section 6013 of Senate amendment)

The provision would require the Secretary of Health and Human Services to make reasonable efforts to ensure that a qualified pediatrician or other specialist in a field of medicine appropriate to the disability of the child evaluate the child's disability for purposes of determining eligibility for SSI.

The provision would take effect in the sixth month beginning after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

7. REIMBURSEMENT FOR VOCATIONAL REHABILITATION SERVICES

(Section 5037 of the Conference Agreement)

Present law

The Secretary of HHS is required to refer blind and disabled individuals who are receiving SSI benefits to State vocational rehabilitation agencies and is authorized to reimburse these agencies for the reasonable and necessary costs of the vocational rehabilitation services that are provided to recipients under certain specified conditions. Reimbursement is not allowable with respect to services provided in months for which individuals were not receiving cash benefits but were eligible for Medicaid because they were in "special status" under 1619(b), were in suspended benefit status, or were receiving Federally administered State supplementary payments but not Federal SSI benefits.

House bill

No provision. (H.R. 5828, as reported by the Committee on Ways and Means, includes a provision identical to the Senate amendment.)

Senate amendment (Section 6015 of Senate amendment)

The provision would implement a recommendation of the Disability Advisory Council to authorize reimbursement for vocational rehabilitation services provided in months for which individuals were in "special status" under section 1619(b), were in suspended benefit status, or were receiving Federally administered State supplementary payments.

The provision would take effect on the date of enactment and would apply to claims for reimbursement pending on or after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

8. PRESUMPTIVE ELIGIBILITY TIME PERIOD

(Section 5038 of the Conference Agreement)

Present law

The Social Security Administration can presume eligibility for up to 3 months while processing applications for SSI on the basis of disability or blindness. If the process takes longer than 3 months, those ultimately eligible for benefits after three months receive back payments. In 1989, the Social Security Administration estimates that the final decision on eligibility took longer than 3 months in 31 percent of the cases where presumptive eligibility had been granted. Those who are determined to be ineligible are not required to repay the benefits they received while SSA presumed their eligibility.

House bill

No provision. (H.R. 5828, as reported by the Committee on Ways and Means, includes a provision to extend the period of presumptive eligibility from 3 to 6 months.

The provision is effective upon enactment.)

Senate amendment

No provision.

Conference agreement

The conference agreement includes the provision contained in H.R. 5828, effective in the month beginning six months after enactment.

9. CONTINUING DISABILITY AND BLINDNESS REVIEWS

(Section 5039 of the Conference Agreement)

Present law

SSI recipients can participate in the work incentive provisions of section 1619 by earning amounts up to the level at which benefits cease ($857 per month for single persons). Even if they are no longer eligible for cash benefits, they can continue to receive Medicaid.

Participants in the work incentive provision are subject to continuing disability or blindness review at certain times: (1) within 12 months of initial eligibility for the work incentive provisions; (2) promptly when an individual's earnings alone would have made him ineligible for cash assistance or Medicaid for the prior 12 months under section 1619 and he has become eligible again for either Medicaid or cash assistance.

House bill

No provision. (H.R. 5828, as reported by the Committee on Ways and Means, includes a provision which permits continuing disability reviews no more than once every 12 months. The provision is effective upon enactment.)

Senate amendment

No provision.

Conference agreement

The conference agreement includes the provision contained in H.R. 5828.

10. CONCURRENT APPLICATIONS FOR SSI AND FOOD STAMPS

(Section 5040 of the Conference Agreement)

Present law

Public law 99-570, the Anti-Drug Abuse Act of 1986, amended the Social Security Act to require the Secretaries of HHS and Agriculture to develop a procedure to allow institutionalized individuals who are about to be released to make a single application for both SSI and food stamp benefits.

House bill

No provision.

Senate amendment (Section 6014 of Senate amendment)

Under this provision, the Secretary of HHS could either: (1) use a single application form for the food stamp and SSI programs; or (2) take concurrent applications for the SSI and food stamp programs.

The provision would take effect on the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

11. DISREGARD OF TRUST CONTRIBUTIONS

(Section 5041 of the Conference Agreement)

Present law

The term "trust" is not defined in either SSI law or regulations. SSI policy, as expressed in the program's operating manual, is to treat a trust as a resource when an individual owns the assets in the trust and, acting on his own behalf or through an agent (such as a representative payee for SSI benefits), has the legal right to use them for his own food, clothing, or shelter. If, however, the individual does not have the legal authority to access trust assets for his own food, clothing, or shelter (e.g., there is an intervening trustee), the trust is not considered a resource.

Cash payments made to an individual, including those from a trust (regardless of whether the trust is considered a resource), are considered income in the month received. Noncash payments for food, clothing, or shelter are also considered income. However, there are special rules under which noncash payments are presumed to have a maximum value of one-third of the Federal SSI monthly benefit amount, plus a $20-a-month income exclusion. If a person can show that any in-kind support and maintenance provided is less than the "presumed value," the lesser amount is considered income. Thus, any cash or noncash payment for food, clothing,

or shelter affects SSI benefits and eligibility status. However, under SSA policy, a payment for certain social, medical, educational, transportation, or other services does not count as income, and does not affect SSI benefits or eligibility status.

House bill

No provision.

Senate amendment (Sections 6016-6018 of Senate amendment)

The SSI statute would be amended to specify that a trust established for an SSI recipient to which the recipient does not have legal access would not be counted as a resource, and certain non-cash contributions to a recipient would not be counted as income. In addition, the Secretary of HHS would be required to inform the family of a child who is awarded a retroactive payment as the result of the decision of the Supreme Court in Sullivan v. Zebley of the implications of such payments for SSI eligibility, that the family may be able to place the payment in a trust for the benefit of the child, and that legal assistance may be available. This information need not be provided in the form of a separate notice, but may be included in the notice of award of the retroactive payment.

Conference agreement

The conference agreement includes the Senate amendment requiring the Secretary to inform the family of a child who is awarded a retroactive payment as the result of the decision of the Supreme Court in Sullivan v. Zebley that the family may be able to place the payment in a trust for the benefit of the child.

The conference agreement does not include the Senate amendment with respect to the establishment of trusts. However, the managers recognize that it is important for SSI applicants and recipients to understand how different forms of income and resources are treated under the program, in order that they and their families can plan accordingly. They therefore intend that hearings be held during the 102nd Congress to address such issues as: whether statutory language should be enacted to specify the conditions under which funds placed in a trust may be excluded from countable income and resources; whether any limits should be placed on the amounts that can be placed in trust; and the purposes for which trust funds may be expended without affecting SSI eligibility and benefits. The omission of the Senate provision from the conference agreement is not intended in any way to change current SSA policy with respect to trusts.

II. Subtitle B—Old-Age, Survivors, and Disability Insurance

1. Make Permanent the Continuation of Disability Benefits During Appeal

(Section 5102 of the Conference Agreement)

Present law

A disability insurance (DI) beneficiary who is determined to be no longer disabled may appeal the determination sequentially through three appellate levels within the Social Security Administration (SSA): a reconsideration, usually conducted by the State Disability Determination Service that rendered the initial unfavorable determination; a hearing before an SSA administrative law judge (ALJ); and a review by a member of SSA's Appeals Council.

The beneficiary has the option of having his or her benefits continued through the hearing stage of appeal. If the earlier unfavorable determinations are upheld by the ALJ, the benefits are subject to recovery by the agency. (If an appeal is made in good faith, benefit recovery may be waived.) Medicare eligibility is also continued, but medicare benefits are not subject to recovery.

The Disability Reform Amendments of 1984 (P.L. 98-460) provided benefits through the hearing stage on a temporary basis. This provision was subsequently extended, most recently by the Omnibus Budget Reconciliation Act of 1989 (P.L. 101-239). That Act extends the provision to appeals of termination decisions made on or before December 31, 1990. Under this latest extension, payments may continue through June 30, 1991 (i.e., through the July 1991 check).

House bill

No provision. (H.R. 5828, as reported by the Committee on Ways and Means, includes a provision identical to the Senate amendment.)

Senate amendment (Section 6050 of Senate amendment)

The Senate amendment would make the temporary provision permanent. Thus, on a permanent basis, beneficiaries would have the option of having their DI and medicare benefits continued through the hearing stage of appeal. As under current law, DI benefits would be subject to recovery where the ALJ upheld the earlier unfavorable decision, while medicare benefits would not be subject to subsequent recovery.

The provision would be effective upon enactment.

Conference agreement

The conference agreement follows the Senate amendment.

2. IMPROVEMENT OF THE DEFINITION OF DISABILITY APPLIED TO DISABLED WIDOW(ER)S

(Section 5103 of the Conference Agreement)

Present law

A widow(er) or surviving divorced spouse of a worker may be entitled to widow(er)'s benefits if he or she is age 60, or at any age if he or she is caring for the worker's child who is under age 16. A widow(er) or surviving divorced spouse with no child in care and who is under age 60 but is at least age 50 may be eligible for widow(er)'s benefits as a disabled widow(er).

Generally, disability is defined as an inability to engage in any substantial gainful activity (defined in regulations as earnings of more than $500 per month, effective January 1, 1990) by reason of a physical or mental impairment. The impairment must be medically determinable and expected to last for not less than 12 months or to result in death. A person (other than a disabled widow(er)) may be determined to be disabled only if, due to this impairment, he or she is unable to engage in any kind of substantial gainful work, considering his or her age, education and work experience, which exists in the national economy.

The definition of disability which is applied to widow(er)s, however, is stricter than that which is applied to workers and to Supplemental Security Income (SSI) disability applicants. First, a widow(er) must have a disability severe enough to prevent him or her from engaging in "any gainful activity" (little or no earnings at all) rather than substantial gainful activity (ordinarily, earnings of more than $500 per month). Second, for a disabled widow(er) the three vocational factors used in determining a worker's disability—age, education, and work experience—are not considered. Therefore, the disability must be established based on medical evidence alone.

Once SSA determines that an individual is disabled, there is a five-month waiting period before disability benefits are payable. Once disability benefits begin, there is a 24-month waiting period for entitlement to medicare benefits.

The stricter test of disability for disabled widow(er)s was established in the Social Security Amendments of 1967, which created this new entitlement to benefits. In explaining the reasons for the more restrictive rules, Ways and Means Committee Chairman Wilbur Mills stated on the House floor, "We wrote this provision of the bill very narrowly, because it represents a step into an unexplored area where cost potentials are an important consideration."

House bill

No provision. (H. R. 5828, as reported by the Committee on Ways and Means, includes a provision identical to the Senate amendment.)

Senate amendment (Section 6051 of Senate amendment)

Providing benefits to widow(er)s on the basis of disability has been found not to be a significant cost to the trust fund. Therefore, the provision would repeal the stricter definition of disability that

must be met by a disabled widow(er) age 50-59 in order to qualify for widow(er)'s benefits and instead apply the definition of disability used for workers. Widow(er)s who had been receiving SSI disability benefits prior to becoming eligible for disabled widow(er)'s benefits would be able to count the months beginning with the month they first received these benefits toward satisfying the five-month waiting period for social security disability benefits and the 24-month waiting period for medicare benefits. In addition, widow(er)s who receive SSI disability benefits prior to becoming entitled to disabled widow(er)'s benefits would not lose medicaid eligibility as a result of receiving a higher social security benefit, but only for so long as they are not entitled to medicare benefits.

The provision would be effective for benefits payable for months after December, 1990, but only on the basis of applications filed or pending on or after January 1, 1991. The Secretary would not be required to make a new determination of disability for widow(er)s receiving SSI or disabled worker's benefits prior to becoming entitled to disabled widow(er)'s benefits. SSA would be required, to the extent possible, to notify such individuals of their eligibility for disabled widow(er)'s benefits.

Conference agreement

The conference agreement follows the Senate amendment.

3. PAYMENT OF BENEFITS TO A CHILD ADOPTED BY A SURVIVING SPOUSE

(Section 5104 of the Conference Agreement)

Present law

A child adopted by the surviving spouse of a deceased worker must meet two tests in order to be entitled to benefits as a surviving child. First, adoption proceedings must have been initiated prior to the worker's death, or the adoption must have been completed within two years of the worker's death. Second, the child must have been living in the worker's home and cannot have been receiving support from any source other than the worker or the spouse (e.g., a foster care program) in the year prior to the worker's death.

House bill

No provision. (H.R. 5828, as reported by the Committee on Ways and Means, includes a provision identical to the Senate amendment.)

Senate amendment (Section 6052 of Senate amendment)

A child adopted by the surviving spouse of a deceased worker would be entitled to survivor's benefits if the child either lived with the worker or received one-half support from the worker in the year prior to death. The requirements relating to the timing of the adoption would not be changed.

The provision would be effective with respect to benefits payable for months after December 1990, but only on the basis of applications filed on or after January 1, 1991.

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Conference agreement

The conference agreement follows the Senate amendment.

4. IMPROVEMENTS IN THE REPRESENTATIVE PAYEE SYSTEM

(Section 5105 of the Conference Agreement)

Present law

Under current law, the Secretary of Health and Human Services may appoint a relative or some other person (known as a "representative payee") to receive social security or SSI benefit payments on behalf of a beneficiary whenever it appears to the Secretary that the appointment of a representative payee would be in the best interest of the beneficiary.

The Secretary is required to investigate each individual applying to be a representative payee either prior to, or within 45 days after, the Secretary certifies payment of benefits to that individual. Present law does not specify what shall be included in the investigation.

The Secretary is required to maintain a system of accountability monitoring under which each representative payee is required to report not less than annually regarding the use of the payments. The Secretary is required to review the reports and identify instances where payments are not being properly used.

Any individual convicted of a felony under section 208 or section 1632 of the Social Security Act may not be certified as a representative payee.

House bill

No provision. (H.R. 5828, as reported by the Committee on Ways and Means, includes a provision that is similar to the Senate amendment, with minor and technical differences).

Senate amendment (Section 6053 of Senate amendment)

a. Investigations of representative payee applicants

During the investigation of the representative payee applicant, the Secretary would be required to: 1) require the representative payee applicant to submit documented proof of identity; 2) conduct a face-to-face interview with the representative payee applicant when practicable; 3) verify the social security account number or employer identification number of the representative payee applicant; 4) determine whether the representative payee applicant has been convicted of a social security felony under section 208 or section 1632 of the Social Security Act; and 5) determine whether the representative payee applicant had ever been dismissed as a representative payee for misuse of a beneficiary's funds. An individual who had been convicted of a felony under section 208 or section 1632, or dismissed as a representative payee for misuse of the benefit payment, would not be permitted to be certified as a representative payee on or after January 1, 1991. The Secretary would be permitted to issue regulations under which an exemption from the prohibition against certification in the case of misuse would be granted on a case-by-case basis, if the exemption would be in the

best interest of the beneficiary. The conferees intend that the exemption would be granted only in rare instances.

The Secretary would be required to: (1) terminate payments to a representative payee where the Secretary or court of law found that the representative payee had misused the benefit payments; (2) maintain a list of those terminated for misuse on or after January 1, 1991; and (3) provide such a list to local field offices. If the computer program necessary to maintain such a list is not developed by January 1, 1991, the list should be maintained manually. Under current SSA policy, misuse is defined as converting benefit payments for personal use, or otherwise diverting the payments in bad faith with a reckless indifference to the welfare and interests of the beneficiary. The conferees expect the Secretary to apply this definition under this provision.

The Secretary would be required to maintain a centralized, current file readily retrievable by all local SSA offices of: 1) the address and social security account number (or employer identification number) of each representative payee; and 2) the address and social security account number of each beneficiary for whom each representative payee is providing services as representative payee. In addition, local service offices would be required to maintain a list of all public agencies and community-based non-profit social service agencies qualified to serve as a representative payee in the area served by such office.

Current law prohibits any individual convicted of a felony under section 208 or section 1632 of the Social Security Act from serving as representative payee. The provision would require SSA to maintain a list of those convicted and make it readily available to local field offices.

b. Withholding of benefits

In cases where the Secretary is unable to find a representative payee, and the Secretary determines that it would cause the social security beneficiary or SSI recipient substantial harm to make direct payment, the Secretary would be permitted to withhold payment for up to one month. Not later than the expiration of the one month period, the Secretary would be required to begin direct payment to the beneficiary starting with the current month's benefit unless the beneficiary had been declared legally incompetent or was under age 15. Retroactive benefits would be withheld until a representative payee had been appointed or the Secretary determines a suitable representative payee could not be found. Retroactive benefits would be paid over such period as the Secretary determines is in the best interest of the beneficiary.

It is not the intention of the conferees to encourage SSA to withhold benefits from a beneficiary whom the Secretary has determined to need a representative payee. The beneficiary should be paid directly if at all possible, especially if the beneficiary had been using the benefit payment to meet immediate needs such as shelter, food and clothing.

The conferees do not wish SSA to view the one month withholding period as a routinely acceptable length of time in which to find a representative payee. The conferees expect SSA to make every

effort to find a qualified representative payee for an individual as quickly as possible.

The conferees recognize that in some cases (such as an unreported change of address) SSA may not be officially notified of the need to change a representative payee. The conferees intend that the 1-month period of suspension shall be measured from the point the Secretary first becomes aware that a representative payee issue exists, and shall consider the objective of this provision met so long as the Secretary takes prompt action to minimize interruption of benefits.

c. Limitations on the appointment of representative payee

An individual who is a creditor providing goods and services to an OASDI or SSI beneficiary for consideration would be precluded from serving as the beneficiary's representative payee with certain exceptions. The exceptions would include: (1) a relative who resides in the same household as the beneficiary; (2) a legal guardian or representative; (3) a facility licensed or certified under State or local law; (4) an administrator, owner, or employee of such facility if the beneficiary resides in the facility and the local social security office has made a good faith effort to locate an alternate representative payee; and (5) an individual whom the Secretary determines to be acceptable based on a written finding reached under established rules that require the individual to show to the satisfaction of the Secretary that he or she poses no risk to the beneficiary, that the individual's financial relationship with the beneficiary poses no substantial conflict of interest, and no other more suitable representative payee exists.

d. Appeal rights and notices

The beneficiary would have the right to: 1) appeal the Secretary's determination of the need for a representative payee; and 2) appeal the designation of a particular person to serve as representative payee. In appealing either the determination or the designation, the beneficiary (or the applicant in cases of initial entitlement) would have a right to review the evidence upon which the determination was based and to submit additional evidence to support the appeal.

The Secretary would be required to send a written notice of the determination of the need for a representative payee to the beneficiary (other than a child under age 18 living with his parents), and each person authorized to act on behalf of an individual who is legally incompetent or is a minor.

The provision would require that the notices be provided in advance of any benefits being paid to a representative payee. In addition, the notice must be clearly written and explain the beneficiary's rights in an easily understandable manner.

e. High-risk representative payees

The Secretary would be required to study and provide recommendations as to the feasibility and desirability of formulating stricter accounting requirements for all high-risk representative payees and providing for more stringent review of all accounting from such representative payees. The Secretary would be required to

define as high-risk representative payees: 1) non-relative representative payees who do not live with the beneficiary; 2) those who serve as a representative payee for five or more beneficiaries (under title II, title XVI or a combination thereof) and who are not related to them; 3) creditors of the beneficiary; and 4) any other group determined by the Secretary to be high-risk.

The purpose of the provision is to identify groups or individuals serving as representative payees who may be likely to misuse or improperly use benefit payments. At a minimum, the conferees expect SSA to examine board and care operators, nursing homes, and individuals who are not related to nor living with the beneficiary. The proposal does not apply to Federal or State governmental institutions.

f. Restitution of benefits

In cases where the negligent failure of the Secretary to investigate or monitor a representative payee results in misused benefits, the Secretary would be required to make repayment to the beneficiary. In addition, the Secretary would be required to make a good faith effort to obtain restitution of any misused funds.

g. Fee for representative payee services

Community-based non-profit social service agencies, in existence on October 1, 1988, which are bonded or licensed by their states and regularly serve as representative payees for five or more beneficiaries would be allowed to collect a monthly fee for representative payee services. The fee would be collected from the beneficiary's social security or SSI payment not to exceed the lesser of ten percent of the monthly benefit due or $25.

The provision would sunset after three years. The Secretary would be required to keep track of the number and type of groups who participated under this provision and report back to the Committee on Ways and Means and the Committee on Finance at the end of two years.

In general, the provision would prohibit an agency which is a creditor of the beneficiary from serving as a representative payee but would require the Secretary to develop regulations whereby exceptions would be granted on a case by case basis if the exception is in the best interest of the beneficiary.

The term "community-based, non-profit, social service agencies" means non-profit social service agencies which are representative of communities or significant segments of communities and that regularly provide services for those in need. Guardian, Inc., of Calhoun County, Michigan, is an example of a non-profit organization which regularly provides representative payee services. The Salvation Army, Catholic Charities, and Lutheran Social Services are examples of agencies providing social services to the needy.

Qualified organizations which charge or collect, or make arrangements to charge or collect, a fee in excess of the maximum fee would be subject to a fine of not more than $10,000.

Currently, SSA permits an individual serving as a representative payee to be reimbursed from the beneficiary's check for actual out-of-pocket expenses incurred on behalf of the beneficiary. These expenses include items such as stamps, envelopes, cab fare, or long-

distance phone calls. It is the intention of the conferees that such individual representative payees would continue to be reimbursed in this manner. The conferees do not intend these representative payees to receive any additional fee for services.

The General Accounting Office would be directed to conduct a study of the advantages and disadvantages of allowing qualified organizations that charge fees to serve as representative payees to individuals who receive social security and SSI benefits, and to report its finding to the Finance and Ways and Means Committees by January 1, 1993.

h. Studies and demonstration projects

(i) The Secretary would be required to enter into demonstration arrangements with not fewer than two states under which the Secretary would make readily available to such states a list of all addresses where OASDI and SSI benefit payments are received by five or more unrelated beneficiaries. The Secretary would be required to make the information available to the state agencies primarily responsible for regulating care facilities or for providing adult or child protective services in the participating states.

The purpose of this demonstration project is to determine whether providing such information to the state protective service agencies would be useful in locating unlicensed board and care homes.

(ii) The Secretary would be required to study the feasibility of determining the type of representative payee applicant most likely to have a felony or misdemeanor conviction, the suitability of individuals with prior convictions to serve as representative payees, and the circumstances under which such applicants could be allowed to serve as representative payee.

The information obtained from this study would assist the Ways and Means and Finance Committees in determining whether there are circumstances under which an individual with a conviction should be permitted to serve as a representative payee.

(iii) The Secretary of Health and Human Services, in consultation with the Secretary of the Treasury and the Attorney General, would be required to study the feasibility of establishing and maintaining a list of the names and social security account numbers of those who have been convicted of social security or SSI check fraud violations under section 495 of title 18 of the U.S. Code. As part of the study, the Secretary would be required to consider the feasibility of providing such a list to social security field offices in order to assist claims representatives in the investigation of representative payee applicants. The Secretary would be required to report the results of the study, together with any recommendations, to the Committee on Ways and Means and the Committee on Finance no later than July 1, 1992.

Law enforcement agencies do not report violations under section 495 of title 18 of the U.S. Code to either SSA or the Department of Health and Human Services Inspector General. As a result, SSA is often unaware of arrests and convictions of individuals for violations under this section and therefore fails to

obtain restitution or to prevent those convicted of such violations from serving as representative payee.

(iv) The Secretary would be required to conduct a study with the Department of Veterans' Affairs of the feasibility of designating the Department of Veterans' Affairs as the lead agency for administering a representative payee program for dual recipients of Old Age Survivors and Disability Insurance or Supplemental Security Income benefits and veterans' benefits. The Secretary would be required to report to Congress on the feasibility of this arrangement within six months after enactment.

In general, the provision would be effective July 1, 1991.

Conference agreement

The conference agreement follows the Senate amendment with minor and technical changes.

5. STREAMLINING OF THE ATTORNEY FEE PAYMENT PROCESS

(Section 5106 of the Conference Agreement)

Present law

Attorneys and other persons who represent claimants before the Social Security Administration (SSA) are permitted to collect fees for their services, subject to approval and limits set by SSA. By regulation, the representative must submit a fee petition detailing the number of hours spent on the case and requesting a specific fee. The Administrative Law Judge (ALJ) who heard the case is required to review the fee petition. If the fee requested is less than $4,000, the ALJ has authority to approve or modify it. If the amount requested exceeds $4,000, it must be reviewed and approved or modified by the regional Chief ALJ. Where the claimant is represented by an attorney and a favorable determination is made, SSA by statute withholds up to 25 percent of the claimant's past-due social security benefits and pays the attorney directly. In cases where the claimant is concurrently entitled to both past-due social security and Supplemental Security Income (SSI) benefits and the SSI benefits are paid first, the amount of past-due social security benefits payable is reduced by the amount of SSI benefits that would not have been paid if the social security benefits had been paid monthly when due rather than retroactively. In many such cases, this leaves little or no past-due social security benefits out of which to pay the attorney the approved fee.

House bill

No provision. (H.R. 5828, as reported by the Committee on Ways and Means, includes a provision that is similar to the Senate amendment with minor and technical differences.)

Senate amendment (Section 6054 of Senate amendment)

The provision would generally replace the fee petition process with a streamlined process in which SSA would approve any fee agreement jointly submitted in writing and signed by the representative and the claimant if the Secretary's determination with respect to a claim for past-due benefits was favorable and if the

agreed-upon fee did not exceed a limit of 25 percent of the claimant's past-due benefits up to $4,000. The $4,000 limit could be increased periodically for inflation at the Secretary's discretion. If a fee was requested for a claim which did not meet the conditions for the streamlined approval process, it would be reviewed under the regular fee petition process.

A representative who is an attorney would be paid the approved fee out of the claimant's past-due social security benefits, prior to any reduction for previously-paid SSI benefits. However, if the attorney were awarded a fee in excess of 25 percent of the claimant's past-due social security benefits, the amount payable to the attorney out of the past-due social security benefits could not exceed 25 percent of these benefits.

The representative, the claimant, or the ALJ that heard the case would have the right to protest the approved fee. However, the ALJ could protest the approved fee only on the basis of evidence of the failure of the person representing the claimant to represent adequately the claimant's interest, or on the basis of evidence that the fee is clearly excessive for the services rendered. SSA would review any protested fee and approve, modify, or disallow it. If the ALJ that heard the case filed the protest, a different ALJ would review the fee.

It is not the conferees' intent that this process be used to establish regular review of fees at the ALJ level. The Committee wishes to emphasize that the protest of a fee amount by an ALJ is to be made only in cases where there is prima facie evidence that the fee is clearly excessive in light of the services rendered.

In addition, with respect to reimbursement for travel expenses of individuals who represent claimants, such reimbursement could not exceed the maximum amount that would be payable for travel to the site of the reconsideration interview or proceeding before an ALJ from a point within the geographical area served by the office having jurisdiction over the interview or proceeding.

With the exception of the provisions relating to direct payment of an attorney's fee out of past-due benefits, conforming changes would be made with respect to representation of SSI applicants.

The provision would be effective for determinations made on or after July 1, 1991, and reimbursement for travel costs incurred on or after April 1, 1991.

Conference agreement

The conference agreement follows the Senate amendment.

6. RES JUDICATA: APPEAL VERSUS REAPPLICATION

(Section 5107 of the Conference Agreement)

Present law

If a claimant for social security disability benefits successfully appeals an adverse determination by the Secretary, benefits can be paid retroactively for up to 12 months prior to the date of the original application.

If, however, instead of appealing, the claimant reapplies and is subsequently found to be disabled as of the date originally alleged,

there are circumstances where retroactive benefits would be limited to 12 months prior to the date of the subsequent application (rather than prior to the date of the first application). This occurs when SSA's "reopening rules" do not permit the original application to be reopened. (SSA's administrative policy permits a case to be reopened within 12 months of an initial determination for any reason; and within four years if there is new and material evidence or the original evidence clearly shows on its face that an error was made in the original decision.)

A reapplication, in lieu of an appeal, also could result in an outright denial of social security or Supplemental Security Income (SSI) benefits without consideration of an individual's medical condition. This occurs in the case of social security when: (i) the claimant's insured status runs out before the date of the original denial; and (ii) there is no new and material evidence and no facts or issues that were not considered in making the prior decision. In the case of SSI, this occurs when (ii) applies. In these situations, SSA applies the legal principle of res judicata to deny the subsequent claim. Under this principle—the use of which is prescribed by SSA regulations—SSA will not consider the same claim again and again.

Prior to May 1989, SSA's standard denial notice informed claimants that they could reapply at any time but did not explain the potential adverse consequences of reapplying versus appealing a denial. A May 1989 modification of this notice informs claimants that reapplying may result in a loss of benefits but does not mention the second problem described above, i.e., an outright denial of eligibility without further consideration of the evidence.

House bill

No provision. (H.R. 5828, as reported by the Committee on Ways and Means, includes a provision that is identical to the Senate amendment.)

Senate amendment

When a claimant for social security or SSI benefits can demonstrate that he or she failed to appeal an adverse decision because of reliance on incorrect, incomplete, or misleading information provided by SSA, his or her failure to appeal could not serve as the basis for denial by the Secretary of a second application for any payment under title II or title XVI. This protection would apply to both initial denials and reconsiderations by the Secretary. The Secretary also would be required to include in all notices of denial a clear, simple description of the effect on possible entitlement to benefits of reapplying rather than filing an appeal.

The provision would apply to adverse determinations made on or after January 1, 1991.

Conference agreement

The conference agreement follows the Senate amendment, with an effective date of July 1, 1991.

7. SSA TELEPHONE ACCOUNTABILITY DEMONSTRATION PROJECTS

(Section 5108 of the Conference Agreement)

Present law

The Social Security Act is silent regarding telephone service provided by SSA. In practice, SSA currently operates 37 teleservice centers (TSCs) that respond to inquiries from the public. In addition to providing general program information, these TSCs can schedule appointments at local offices and provide individual service, including discussing a person's eligibility and taking specific actions regarding his or her benefits. In October 1988, the TSCs were integrated into a toll-free telephone network that covered 60 percent of the population. In October 1989, toll-free service was extended via the TSCs and four new mega-TSCs to the entire country. At the same time, direct telephone access to SSA's local field offices was terminated, so that the public can no longer call most of these offices directly.

Since October 1989, there have been many complaints from the public about SSA's telephone service. These complaints focus on high 800 number busy rates, on problems with the accuracy and completeness of information provided to callers, and on difficulties caused by the elimination of telephone access to local offices.

House bill

No provision.

Senate amendment (Sections 6055-6056 of Senate amendment)

The Secretary would be required to carry out demonstration projects testing a set of accountability procedures in at least three teleservice centers. These procedures are intended to assure that individuals who conduct business with the agency via telephone concerning title II, title XVI, or title XVIII benefits are not disadvantaged, either as a result of receiving incorrect information or from their inability to document their own actions and requests. Under these procedures, callers who provide adequate identifying information would be given a written confirmation of the date and nature of their telephone communication with the agency. This confirmation would include the name of the SSA employee with whom the caller spoke, a description of any action that the employee said would be taken in response to the call, and any advice that the caller was given. SSA would be required to maintain a copy of this confirmation for a minimum of five years following the termination of the demonstration projects.

Routine telephone communication would be excluded from these requirements. Thus, callers making inquiries that do not relate to potential or current entitlement or eligibility for title II, title XVI or title XVIII benefits—i.e., questions about the location or hours of operation of local offices—would not be subject to the accountability procedures described above.

The Secretary would be required to issue a report to the Committee on Ways and Means and the Committee on Finance on the demonstration projects. This report would:

(i) Assess the costs and benefits of the accountability procedures;

(ii) Identify any major difficulties encountered in implementing the demonstration projects; and

(iii) Assess the feasibility of implementing the accountability procedures nationally.

The telephone demonstration projects would be required to be initiated within six months of the enactment of this Act, and would continue for one to three years. The report would be submitted 90 days after the termination of the projects.

Conference agreement

The conference agreement follows the Senate amendment.

8. NOTICE REQUIREMENTS

(Section 5109 of the Conference Agreement)

Present law

The Secretary must use understandable language in notifying individuals of a denial of disability benefits. The law is silent regarding the language of other notices.

House bill

No provision. (H.R. 5828, as reported by the Committee on Ways and Means, provides that, in issuing notices regarding title II and title XVI benefits, the Secretary would be required to:

(i) Use clear and simple language;

(ii) Include the local office telephone number and address in notices generated by SSA local offices;

(iii) Include the address of the local office which serves the recipient of the notice and a telephone number through which that office can be reached in notices generated by SSA central offices.

The provision would apply to notices issued on or after January 1, 1991.)

Senate amendment

No provision.

Conference agreement

The conference agreement includes the provision contained in H.R. 5828, effective with respect to notices issued on or after July 1, 1991.

9. RESTORATION OF TELEPHONE ACCESS TO THE LOCAL OFFICES OF THE SOCIAL SECURITY ADMINISTRATION

(Section 5110 of the Conference Agreement)

Present law

The Social Security Act is silent regarding telephone service provided by the Social Security Administration (SSA). In practice, SSA currently operates 37 teleservice centers (TSCs) that respond to inquiries from the public. In addition to providing general program

information, these TSCs can schedule appointments at local offices and provide individual service, including discussing a person's eligibility and taking specific actions regarding his or her benefits. In October 1988, the TSCs were integrated into a toll-free telephone network that covered 60 percent of the population. In October 1989, toll-free service was extended via the TSCs and four new mega-TSCs to the entire country. At the same time, direct telephone access to SSA's local field offices was terminated, so that the public can no longer call most of these offices directly.

House bill

No provision. (H.R. 5828, as reported by the Committee on Ways and Means, includes a provision that is similar to the Senate amendment, but requires restoration of SSA's local telephone service as soon as possible, but not later than 180 days following the date of enactment.)

Senate amendment (Section 6057 of Senate amendment)

The Senate amendment contains a provision that would require the Secretary to reestablish telephone access to local SSA offices at the level generally available on September 30, 1989 (the date just prior to the cut-off of direct telephone access to most local offices). The Secretary would also be required to re-list these local office numbers in local telephone directories (as well as in the directories used by public telephone operators in providing callers with information). The required telephone listings could include a brief instruction to the public to call SSA's 800 number for general information.

In addition, by January 1, 1993, the Secretary would be required to submit to the Committee on Finance and the Committee on Ways and Means a report which: (i) assesses the impact of the requirements established by this provision on SSA's allocation of resources, workload levels, and service to the public, and (ii) presents a plan for using new, innovative technologies to enhance access to the Social Security Administration, including access to local offices. If the Secretary's plan provides for maintaining or enhancing public access to local offices by individuals in need of assistance from a local SSA representative, it is the Conferees' intent to reconsider the need for a statutory requirement governing telephone access.

The provision would be effective April 1, 1991.

Not later than 90 days after enactment, the General Accounting Office would be required to report to the Committee on Finance and the Committee on Ways and Means on the level of public telephone access to the local offices of the Social Security Administration.

Conference agreement

The conference agreement generally follows the Senate amendment, but includes the effective date and GAO reporting deadlines contained in H.R. 5828.

10. IMPROVEMENT IN EARNINGS AND BENEFIT STATEMENTS

(Section 5111 of the Conference Agreement)

Present law

The Omnibus Budget Reconciliation Act of 1989 required the Social Security Administration to establish a program under which covered workers receive periodic statements concerning their earnings and the potential benefits payable on the basis of those earnings. Under that legislation, these statements are to be provided on a biennial basis starting October 1, 1999.

House bill

No provision.

Senate amendment (Section 6058 of Senate amendment)

The requirement that earnings and benefit statements be provided biennially starting in 1999 would be modified to require annual statements beginning at that time. In addition, the Secretary of the Treasury would be authorized to disclose to the Commissioner of Social Security the mailing address of any taxpayer who is entitled to receive an earnings and benefit statement.

The provision would be effective upon enactment.

Conference agreement

The conference agreement follows the Senate amendment.

11. PROVIDE A ROLLING FIVE-YEAR TRIAL WORK PERIOD FOR ALL DISABLED BENEFICIARIES

(Section 5112 of the Conference Agreement)

Present law

Under present law, disability beneficiaries who are still disabled but who want to return to work despite their disabling condition are entitled to a nine-month trial work period. (The months need not be consecutive.) During this period, disabled beneficiaries may test their ability to work without affecting their entitlement to disability benefits. Any work and earnings are disregarded in determining whether the beneficiary's disability has ceased. At the end of this period, the beneficiary's work and earnings are evaluated to determine whether he is able to engage in Substantial Gainful Activity (SGA), which is currently defined by regulation as earnings of more than $500 per month. If so, his benefits are terminated two months later.

Only one trial work period is allowed in any one period of disability. In addition, an individual who is entitled to disabled worker's benefits for which he has qualified without serving a waiting period (i.e., the worker was previously entitled to disabled worker's benefits within five years before the month he again becomes disabled) is not entitled to a trial work period.

House bill

No provision.

Senate amendment (Section 6059 of Senate amendment)

All beneficiaries would be given an opportunity to test their capacity to engage in substantial gainful activity over a sustained period of time before their benefits would be stopped by providing that a disabled beneficiary would exhaust his nine-month trial work period only if he performed services in any nine months within a rolling 60-month period (that is, within any period of 60 consecutive months) and repealing the provision which precludes a reentitled disabled worker from being eligible for a trial work period.

The provision would be effective January 1, 1992.

Conference agreement

The conference agreement follows the Senate amendment.

12. CONTINUATION OF BENEFITS ON ACCOUNT OF PARTICIPATION IN A NON-STATE VOCATIONAL REHABILITATION PROGRAM

(Section 5113 of the Conference Agreement)

Present law

Social Security disability insurance (DI) benefits or Supplemental Security Income (SSI) benefits based on disability that are paid to a beneficiary who has medically recovered may not be terminated or suspended because the disability has ceased if: (1) the individual is participating in an approved State vocational rehabilitation program, and (2) the Commissioner of Social Security determines that completion of the program, or its continuation for a specified period of time, will increase the likelihood that the individual may be permanently removed from the benefit rolls. The 1988 Disability Advisory Council recommended that the same benefit continuation provisions be extended to beneficiaries who medically recover while participating in other approved vocational rehabilitation programs.

House bill

No provision.

Senate amendment (Section 6060 of Senate amendment)

The provision would extend to those DI or SSI beneficiaries who medically recover while participating in a non-State vocational rehabilitation program approved by the Secretary the same benefit continuation rights as those who medically recover while participating in a State vocational rehabilitation program.

The provision would be effective with respect to benefits payable for months after the eleventh month following the month of enactment and would apply with respect to individuals whose disability has or may have ceased after such eleventh month.

Conference agreement

The conference agreement follows the Senate amendment.

13. LIMITATION ON NEW ENTITLEMENT TO SPECIAL AGE-72 PAYMENTS

(Section 5114 of the Conference Agreement)

Present law

Special age-72 benefits (so-called "Prouty benefits" after Senator Winston Prouty of Vermont) were enacted in 1966 to provide some payment to individuals who, when the social security program began or when coverage was extended to their jobs, were too old to earn enough quarters of coverage to become fully insured for regular retirement benefits.

When the benefits were created in 1966, it was expected that new entitlement under this provision would not be possible for anyone reaching age 72 after 1971. This is because individuals age 72 after 1971 who met the quarters-of-coverage requirements for Prouty benefits would also have enough quarters of coverage to be fully insured and thus eligible for the minimum benefit. Because the amount of the Prouty benefits was less than the amount of the minimum benefit payable at age 62, new entitlement to Prouty benefits would not occur. However, due to subsequent changes in the law, it is now theoretically possible for certain people who will reach age 72 after 1990 and who receive the frozen minimum benefit (due to a change in the law in 1977) or who receive less than the minimum benefit (due to its elimination in 1982) to become newly eligible for Prouty benefits. In 1990, the Prouty benefit amount is $159 per month.

House bill

No provision.

Senate amendment (Section 6061 of Senate amendment)

The provision would preclude the unintended payment of Prouty benefits (due to the interaction of the Prouty benefit provision with subsequent changes in the law affecting the minimum benefit) by providing that Prouty benefits would not be payable to any individual reaching age 72 after 1971. This change would not affect any current Prouty beneficiaries.

The provision would be effective upon enactment.

Conference agreement

The conference agreement follows the Senate amendment.

14. ELIMINATION OF ADVANCE TAX TRANSFER

(Section 5115 of the Conference Agreement)

Present law

Because of the threatened insolvency of the social security trust funds, the Social Security Amendments of 1983 changed the rules for crediting the trust funds with social security tax receipts. Prior to 1983, the trust funds were credited with the receipts as they were collected throughout each month. Under the 1983 amendments, the trust funds are credited at the start of each month with the full amount of social security tax receipts which are expected

to be collected throughout the month. These receipts are invested in interest bearing Treasury securities; however, an interest adjustment is made later to leave the trust funds with the same interest earnings that they would have had if the taxes had been credited on an "as received basis." The present crediting rules may present Treasury with a situation in which trust fund assets cannot be invested when the debt limit has been reached.

House bill

No provision.

Senate amendment (Section 6062 of Senate amendment)

The advance tax transfer provisions would be repealed, returning to the prior procedure of crediting the trust funds as tax receipts are received. However, the advanced tax transfer mechanism would be retained as a contingency to be exercised only to the extent that the Secretary of the Treasury determines is necessary to assure sufficient funds to meet current benefit obligations. This would give the social security program the same level of protection that it enjoys under present law without continuing the routine use of the advance transfer mechanism.

The provision would be effective after December 1990.

Conference agreement

The conference agreement follows the Senate amendment, effective the first day of the month following the month of enactment.

15. REPEAL OF RETROACTIVE BENEFITS FOR CERTAIN CATEGORIES OF INDIVIDUALS

(Section 5116 of the Conference Agreement)

Present law

Social security retirement and survivor benefits can be paid for up to six months prior to the month of application if the applicant were otherwise eligible for benefits during that period.

In general, retroactive benefits cannot be paid if doing so would cause a reduction in future monthly benefits (i.e., it would effectively mean that an individual would be filing for "early retirement," in which case an actuarial reduction in benefits is required). For example, if a retroactive application for retirement benefits were to cause a retiree's initial entitlement month to fall before the individual reached age 65, no retroactive benefits could be paid for the months prior to age 65. However, there are four exceptions to this rule which permit payment of retroactive benefits even though it causes an actuarial reduction in benefits.

House bill

No provision. (H.R. 5828, as reported by the Committee on Ways and Means, includes a provision identical to the Senate amendment.)

Senate amendment (Section 6063 of Senate amendment)

The provision would eliminate eligibility for retroactive benefits for two categories of individuals eligible for actuarially reduced benefits: (1) individuals who have dependents who would be entitled to unreduced benefits during the retroactive period (e.g., a retiree under age 65 who has a spouse age 65 or over); and (2) individuals who have pre-retirement earnings over the amount allowed under the social security retirement test that could be charged off against benefits for months prior to the month of application, thus permitting an early retiree to receive benefits for months prior to actual retirement.

The provision would be effective with respect to applications for benefits filed on or after January 1, 1991.

Conference agreement

The conference agreement follows the Senate amendment.

16. CONSOLIDATION OF OLD COMPUTATION METHODS

(Section 5117 of the Conference Agreement)

Present law

A number of old, rarely-used benefit computation methods remain in the Social Security Act. They apply primarily to claims in which the worker filed for benefits or died before 1967 and are used only if they provide a higher benefit than newer computation methods.

Such computations must be done manually. The Social Security Administration (SSA) estimates it would be costly to develop computer programs for these rarely-used benefit computation methods.

House bill

No provision. (H.R. 5828, as reported by the Committee on Ways and Means, includes a provision identical to the Senate amendment.)

Senate amendment (Section 6064 of Senate amendment)

The provision would eliminate all old computation methods which require manual intervention. It would substitute newer computation methods which may be fully processed by computer.

The provision would apply only to new claims for benefits, virtually all of which are for survivor's benefits, and to recomputations for certain retired workers now on the rolls who have recent earnings. However, it is unlikely that there are many individuals who are over 85 and are working at a wage high enough to result in an increase in benefits after a recomputation using a computation method to be eliminated under this provision. No benefits paid to individuals already on the rolls would be reduced.

The provision would be effective 18 months after the month of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

17. SUSPENSION OF DEPENDENT'S BENEFITS WHEN A DISABLED WORKER IS IN AN EXTENDED PERIOD OF ELIGIBILITY

(Section 5118 of the Conference Agreement)

Present law

A disability insurance beneficiary who successfully completes a nine-month trial work period has an extended period of eligibility during which he or she continues to receive medicare benefits and is eligible to receive disability benefits if earnings fall below $500 a month. The law is silent regarding the payment of benefits to dependents during this extended period. However, current Social Security Administration (SSA) policy provides that dependent's benefits are suspended during this period if the disabled worker's benefits are suspended.

House bill

No provision. (H.R. 5828, as reported by the Committee on Ways and Means, includes a provision identical to the Senate amendment.)

Senate amendment (Section 6065 of Senate amendment)

The Senate amendment contains a provision that would codify current SSA policy which links the disabled worker's entitlement to monthly benefits and the dependent's entitlement to benefits for the same month. Thus, a dependent could receive benefits for a month only if the disabled worker received benefits for that month.

The proposal would be effective upon enactment.

Conference agreement

The conference agreement follows the Senate amendment.

18. PAYMENT OF BENEFITS TO DEEMED SPOUSE AND LEGAL SPOUSE

(Section 5119 of the Conference Agreement)

Present law

A spouse or widow(er) whose marriage is found to be invalid (i.e., the husband or wife failed to obtain a legal divorce from a previous spouse, or there was some defect in the marriage ceremony) is eligible for benefits as a "deemed" spouse or widow(er) if he or she is living with the worker (or was at the time of the worker's death) and there is no legal spouse who is currently entitled or had previously been entitled to benefits on the worker's record. In cases where a deemed spouse is paid benefits and a legal spouse later files for benefits, the deemed spouse's benefits are terminated when the legal spouse becomes entitled. The deemed spouse may again receive benefits if the legal spouse and the worker legally divorce, or if the legal spouse dies.

House bill

No provision. (H.R. 5828, as reported by the Committee on Ways and Means, includes a provision that would pay benefits to both the legal spouse and the deemed spouse (or to both the legal widow

and the deemed widow). That is, the existence of a legal spouse would no longer prevent a deemed spouse from receiving benefits on the worker's record or terminate the benefits of a deemed spouse who was already receiving benefits on the worker's record.

A deemed spouse or deemed widow(er) would be entitled to benefits on the worker's record on the same basis as if he or she were a legal spouse and would be paid within the family maximum. The legal spouse would also be entitled to benefits and would be paid outside the family maximum once the deemed spouse became entitled to benefits.

In order to qualify as a deemed spouse, the individual would be required to be living with the worker at the time of filing for benefits (or at the time of the worker's death, in the case of deemed widow(er)'s benefits). A deemed spouse who divorced the worker would be eligible for benefits on the same basis as if he or she were a divorced legal spouse.

The provision would be effective with respect to benefits payable for months after December 1990. With respect to deemed spouses or deemed widow(er)'s whose benefits have been terminated prior to December 1990, the provision would be effective for applications filed on or after January 1, 1991.)

Senate amendment

No provision.

Conference agreement

The conference agreement includes the provision contained in H.R. 5828.

19. VOCATIONAL REHABILITATION DEMONSTRATION PROJECT

(Section 5120 of the Conference Agreement)

Present law

Since the establishment of the Disability Insurance (DI) cash benefits program in 1956, the Social Security Administration (SSA) has been required to refer disabled beneficiaries and applicants to State vocational rehabilitation agencies so that the maximum number of them may be rehabilitated and return to work. When the services provided by a State agency result in a beneficiary engaging in substantial gainful activity for at least nine months, SSA reimburses the agency for the cost of these services from the DI trust fund (or, in the case of disabled widow(er)s and disabled adult children, from the OASI trust fund).

House bill

No provision. (H.R. 5828, as reported by the Committee on Ways and Means, requires SSA to develop and carry out demonstration projects assessing the advantages and disadvantages of permitting disabled beneficiaries to select a qualified rehabilitation agency, public or private, to provide them with services aimed at enabling them to engage in substantial gainful activity and leave the disability rolls. Those eligible to participate in the demonstration projects would include disability insurance beneficiaries, disabled

widow(er)s, and disabled adult children. The project would be implemented in at least three sites in three separate states. They would include a sufficient number of beneficiaries and be of sufficient scope to permit an evaluation of:

The extent to which disabled beneficiaries will participate in the provider selection process (including an identification of their reasons for participating or not participating);

The characteristics (including impairments) of beneficiaries by the type of provider selected;

The rehabilitation needs of beneficiaries by the type of provider selected;

The extent to which non-State vocational rehabilitation firms accept referrals of disabled beneficiaries on the basis of current law reimbursement provisions and of the most effective mechanisms for reimbursing such providers within the framework of current law;

The extent to which providers participating in the demonstration projects contract out services and the types of services that are contracted out;

Whether beneficiaries who select their own vocational rehabilitation provider are more likely to work and leave the disability rolls than those who do not;

The cost effectiveness of permitting beneficiaries to select their vocational rehabilitation provider and of different types of providers; and

The feasibility of enacting the arrangement being tested on a national basis and the additional procedural safeguards, if any, needed to assure its effectiveness if made part of permanent law.

In selecting beneficiaries to participate in the project, the Secretary must choose those for whom there is a reasonable likelihood that the rehabilitation services provided will result in their performance of substantial gainful activity for a continuous period of nine months prior to the completion of the project.

Project participants would be permitted to select a qualified provider to furnish them with rehabilitation services. After seeking recommendations from disabled individuals and organizations representing them, the Secretary would designate a number of qualified providers in the geographic areas of each of the three demonstration sites. In addition, the Secretary would have authority to approve rehabilitation services provided outside these areas on a case-by-case basis.

Providers that participate in the project would be reimbursed in accordance with current law (section 222(d) of the Social Security Act), except that the Secretary would be permitted to contract with qualified providers on a fee-for-service basis to: (1) conduct vocational evaluations aimed at identifying those participants who have a reasonable potential for engaging in substantial gainful activity and being removed from the disability rolls if provided with vocational rehabilitation services; and (2) develop jointly with those participants an individualized written rehabilitation program.

This program would include, but not be limited to: (1) a statement of the individual's rehabilitation goal; (2) a statement of the specific rehabilitation services to be provided and the rehabilitation

provider from which those services will be obtained; (3) the projected date for the initiation of such services and their anticipated duration; and (4) objective criteria and an evaluation procedure and schedule for determining whether the goals are being achieved.

The demonstration project would run for three years. By April 1, 1992, the Secretary would be required to submit a report on the progress of the projects to the Committee on Ways and Means and the Committee on Finance. A final report to these Committees would be due six months after completion of the projects, or by April 1, 1994.

Authority for this demonstration project is provided as an amendment to section 505 of the Social Security Disability Amendments of 1980. To allow for completion of these projects, the Secretary's general authority under section 505 would be extended by approximately three months, from June 10, 1993, to October 1, 1993.

The provision would be effective upon enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the provision contained in H.R. 5828.

20. USE OF SOCIAL SECURITY NUMBER BY CERTAIN LEGALIZED ALIENS

(Section 5121 of the Conference Agreement)

Present law

The use of a false social security number or social security card or the misreporting of social security covered earnings, with intent to deceive, is a felony under section 208 of the Social Security Act, punishable by a maximum penalty of up to $250,000 or up to 5 years imprisonment. The Immigration Reform and Control Act of 1986 (IRCA) extended amnesty and the opportunity to obtain legal status to certain illegal aliens who had been resident and working in the United States for a substantial period of time. However, persons legalized under IRCA are still subject to prosecution for use of a false social security number or card under section 208 of the Social Security Act. As a result, alien workers who are granted temporary or permanent legal resident status under IRCA, and who apply for a correct social security number or attempt to correct their earnings records with the Social Security Administration, may be subject to prosecution as a result of their previous use of a false number or card.

House bill

No provision. (H.R. 2858 includes a provision that would amend the Social Security Act to provide that aliens who, under IRCA or section 902 of the Foreign Relations Authorization Act for Fiscal Years 1988 and 1989, applied for and were granted legal status would not be prosecuted under certain of the criminal provisions in section 208, by virtue of having used a false social security number

or card or having misreported earnings with intent to deceive, during the period prior to, or within 60 days after enactment of this provision. The exemption would not apply to those who sold social security cards, possessed social security cards with intent to sell, possessed counterfeit social security cards with intent to sell or counterfeited social security cards with intent to sell.

The purpose of IRCA is to give most illegal aliens who had been long established in the United States (generally present since January 1, 1982) and who are contributing members of the society an opportunity to become legal residents and lead normal lives. The use of false social security numbers was a common practice among illegal aliens attempting to work in the United States.

When this population was given amnesty from prosecution for violation of the immigration laws, the fact that they could still be prosecuted for previously using a false social security number or card, even after obtaining temporary or permanent resident status, was not addressed. As a result, most of the legalized population is still technically subject to prosecution and loss of legal status as soon as they attempt to correct their earnings records. Many aliens who have applied for, or have been granted, amnesty have not yet corrected their social security earnings record for fear of prosecution under section 208.

The Conferees intend that this exemption apply only to those individuals who use a false social security number to engage in otherwise lawful conduct. For example, an alien who used a false social security number in order to obtain employment which results in eligibility for social security benefits or the receipt of wage credits would be considered exempt from prosecution. However, an alien who used a false social security number for otherwise illegal activity such as bank fraud or drug trafficking would not be exempt from prosecution under this provision.

The provision would make the Social Security Act consistent with the amnesty provisions of IRCA. The Conferees believe that individuals who are provided exemption from prosecution under this proposal should not be considered to have exhibited moral turpitude with respect to the exempted acts for purposes of determinations made by the Immigration and Naturalization Service.

The exemption would apply to all individuals who received amnesty regardless of when they were granted status.

The provision would be effective for fraudulent use which occurred prior to, or within 60 days after, enactment by any person who is ultimately granted legal status under IRCA or section 902 of the Foreign Relations Authorization Act for fiscal years 1988 and 1989.)

Senate amendment

No provision.

Conference agreement

The conference agreement includes the provision contained in H.R. 5828 with minor changes.

21. REDUCTION IN WAGES NEEDED FOR A YEAR OF COVERAGE TOWARD THE SPECIAL MINIMUM BENEFIT

(Section 5122 of the Conference Agreement)

Present law

A "special minimum" social security benefit is available to workers who have many years of work at modest wages. The amount of this benefit is determined by an alternative benefit computation that calculates the benefit based on the number of years of significant earnings, rather than on average lifetime earnings. It applies in cases where this computation results in a higher benefit than that which would be derived under the regular social security benefit computation rules.

The special minimum benefit is computed by multiplying the number of years of special minimum coverage by a base amount. However, only those years in excess of 10 and up to 30 can be multiplied by the base amount (e.g., if an individual has 30 years of coverage toward the special minimum, only 20 of these years can be multiplied by the base amount to determine the benefit amount). In 1990, the base amount is $21.90. A worker with 30 years of coverage under the special minimum would receive a benefit of $437.

For 1951-1978, the individual earns a year of coverage for each year in which he or she has wages or self-employment income of at least 25 percent of the social security contribution and benefit base for that year and, for years after 1978, at least 25 percent of the old-law contribution and benefit base for that year.

House bill

No provision. (H.R. 5828, as reported by the Committee on Ways and Means, includes a provision that would reduce the amount of wages or self-employment income required to earn a year of coverage from 25 percent of the old-law contribution and benefit base (projected by the Congressional Budget Office to be $10,125 in 1991) to 15 percent of the old-law contribution and benefit base (projected to be $6,075 in 1991).

Because the minimum wage was not increased from 1981 through 1989, while the social security contribution and benefit base has been indexed to wage increases, the level of wages required to earn a year of coverage under the special minimum benefit provision has exceeded the minimum wage in every year since 1983. The provision would make it possible once again for a minimum-wage earner to earn years of coverage toward the special minimum. (In 1991, a full-time minimum wage worker would earn $8,606.)

The provision would be effective for years of coverage earned after 1990.)

Senate amendment

No provision.

Conference agreement

The conference agreement includes the provision contained in H.R. 5828.

22. CHARGING OF EARNINGS OF CORPORATE DIRECTORS

(Section 5123 of the Conference Agreement)

Present law

The Omnibus Budget Reconciliation Act of 1987 required that, for purposes of both social security taxation and the retirement test, corporate directors' earnings be treated as received in the year that the services to which they are attributable were performed. Prior to OBRA, because corporate directors' earnings were taxed when received, directors were able to avoid benefit reductions from the retirement test by deferring receipt of earnings until reaching age 70.

House bill

No provision. (H.R. 5828, as reported by the Committee on Ways and Means, would repeal the provision that treats directors' earnings as taxable in the year that the services to which they are attributable were performed. Thus, directors' earnings would be treated as received in the year that the relevant services are performed only for purposes of the social security retirement test.

The provision would be effective with respect to services performed in taxable years beginning after December 31, 1990.)

Senate amendment

No provision.

Conference agreement

The conference agreement includes the provision contained in H.R. 5828 with technical drafting changes.

23. COLLECTION OF EMPLOYEE SOCIAL SECURITY TAX ON GROUP-TERM LIFE INSURANCE

(Section 5124 of the Conference Agreement)

Present law

The Omnibus Budget Reconciliation Act of 1987 required the cost of employer-provided group-term life insurance to be included in wages for FICA tax purposes if it is includible for income tax purposes. Under current law, it is includible for income tax purposes to the extent that coverage exceeds $50,000.

House bill

No provision. (H.R. 5828, as reported by the Committee on Ways and Means, provides that in cases where an employer continues to provide taxable group-term life insurance to an individual who has left his employment, the former employee would be required to pay the employee portion of the FICA tax directly. To enable him to do this, the employer would be required to list separately on the

former employee's W-2 each year the amount of the payment for group-term life insurance and the amount of the employee FICA tax imposed on it. Instructions on form 1040 would then direct the employee to add this amount to his total tax liability. This procedure follows an existing procedure by which employees with income from tips pay the employee share of the FICA tax directly when their wages are not sufficient to enable their employer to withhold it.

A conforming change would be made in the Railroad Retirement Tax Act.

The proposal would apply to group-term life insurance coverage provided after December 31, 1990.)

Senate amendment

No provision.

Conference agreement

The conference agreement includes the provision contained in H.R. 5828.

24. CROSS-REFERENCING OF RAILROAD RETIREMENT TIER 1 TAX RATE TO THE FEDERAL INSURANCE CONTRIBUTIONS ACT

(Section 5125 of the Conference Agreement)

Present law

The railroad retirement Tier 1 tax rate is equivalent to the combined OASDI and HI tax rates of the Federal Insurance Contributions Act (FICA). The Tier 1 rate is described numerically in the Railroad Retirement Tax Act.

House bill

No provision. (H.R. 5828, as reported by the Committee on Ways and Means, includes a provision identical to the Senate amendment.)

Senate amendment

The Senate amendment would amend the Railroad Retirement Tax Act to provide that the Tier 1 tax rate would be determined by cross-reference to the FICA tax rate.

The provision would be effective upon enactment.

Conference agreement

The conference agreement follows the Senate amendment.

25. TWO-YEAR EXTENSION OF GENERAL FUND TRANSFER TO RAILROAD RETIREMENT TIER 2 FUND

(Section 5126 of the Conference Agreement)

Present law

The proceeds from the income taxation of railroad retirement Tier 2 benefits are transferred from the general fund of the Treasury in the Railroad Retirement Account. This transfer applies only to proceeds from the taxation of benefits which have been received

prior to October 1, 1990. Proceeds from the taxation of benefits received after this date will remain in the general fund.

House bill

No provision. (H.R. 5828, as reported by the Committee on Ways and Means, includes a provision similar to the Senate amendment but providing for a two-year rather than a one-year extension of the transfer provision.)

Senate amendment

The Senate amendment would provide for extending the transfer of proceeds from the income taxation of Tier 2 benefits for an additional year, that is, with respect to benefits received prior to October 1, 1991. The continuation of this transfer is estimated to result in an additional deposit into the Railroad Retirement Account of $190 million.

The provision would be effective with respect to benefits received after September 30, 1990 and before October 1, 1991.

Conference agreement

The conference agreement follows the Senate amendment with a modification under which the transfer would be extended for two years rather than one. This two-year extension is estimated to result in an additional deposit into the Railroad Retirement Account of $385 million.

The provision would be effective with respect to benefits received after September 30, 1990 and before October 1, 1992.

26. WAIVER OF THE TWO-YEAR WAITING PERIOD FOR CERTAIN DIVORCED SPOUSES

(Section 5127 of the Conference Agreement)

Present law

A divorced spouse is entitled to benefits on the record of a worker to whom he or she was previously married so long as three conditions are met: 1) both the worker and the divorced spouse are eligible for social security retirement benefits (i.e., are age 62 or older); 2) the marriage lasted 10 years; and 3) the worker is receiving benefits.

If the worker is eligible for benefits but is not receiving them (because the worker has not filed for benefits or because benefits have been suspended due to the retirement test), the divorced spouse may nevertheless be paid benefits on the worker's record, but only when the divorce has been final for two years. The purpose of this two-year waiting period is to prevent couples from obtaining a divorce solely to avoid suspension of spousal benefits under the retirement test. The waiting period is imposed on any divorced spouse whose former spouse does not receive benefits, regardless of whether the divorced spouse was receiving benefits prior to the divorce. Some people argue that the waiting period imposes a hardship on a spouse who had been receiving benefits prior to the divorce, but who loses these benefits because the former spouse returned to work after the divorce.

House bill

No provision. (H.R. 5828, as reported by the Committee on Ways and Means, includes a provision that would waive the two-year waiting period for independent entitlement to divorced spouse's benefits if the worker was entitled to benefits prior to the divorce. In this way, a spouse whose divorce took place after the couple had begun to receive retirement benefits, and whose former spouse (the worker) returned to work after the divorce thus causing the suspension of benefits, would not lose benefits on which he or she had come to depend.

The provision would be effective for benefits payable for months after December, 1990.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the provision contained in H.R. 5828.

27. PREEFFECTUATION REVIEW OF FAVORABLE DECISIONS BY THE SOCIAL SECURITY ADMINISTRATION

(Section 5128 of the Conference Agreement)

Present law

The Social Security Disability Amendments of 1980 require the Secretary of Health and Human Services (HHS) to review 65 percent of favorable title II decisions made by State Disability Determination Services (DDSs) each year prior to their effectuation. The review applies to favorable decisions on initial claims, on reconsiderations, and on continuing disability reviews. At Social Security Administration's (SSA's) current volume of applications and appeals, the agency is required to conduct about 450,000 preeffectuation reviews annually.

The Committee on Ways and Means approved the 65 percent requirement in 1980 as a means of promoting uniformity and accuracy in favorable disability decisions. At that time, the Committee noted that: ". . . in some instances reviewing this percentage of cases may not be cost effective—a lower or higher percentage may be prudent. If the Secretary finds this to be the case, we would expect him to report his findings to [the] Committee in an expeditious manner." (H. Rept. 96-100, p. 10)

Since 1981, SSA improved its capacity to identify the general types of approvals and continuances that are most likely to be incorrect. These improvements were documented in a March 1990 report by the General Accounting Office, which suggests that SSA can maintain current levels of accuracy, and possibly even improve upon them, by targeting preeffectuation reviews on error-prone cases.

House bill

No provision. (H.R. 5828, as reported by the Committee on Ways and Means, would reduce the percentage of favorable state agency

decisions that the Secretary must review from 65 percent across-the-board to 50 percent of allowances. The 50 percent requirement would apply to both initial allowances and allowances upon reconsideration. The Secretary would also be required to review a sufficient number of continuances to assure a high level of accuracy in such decisions. To the extent feasible, the reviews would focus on allowances and continuances that are likely to be incorrect.

SSA would be required to submit annual written reports to the Committee on Ways and Means and the Committee on Finance which (i) state the number of preeffectuation reviews conducted the previous year and, (ii) based on these reviews, assess the accuracy of DDS decisions.

The provision would apply to reviews of state agency determinations made after fiscal year 1990.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the provision contained in H.R. 5828.

28. INCREASE IN THE RETIREMENT TEST FOR WORKERS AGE 65-69

Present law

In 1990, individuals age 65-69 may earn up to $9,360 in annual wages or self-employment income and still be treated as retired; that is, they will have no reduction in their social security benefit as a result of earnings at or below this exempt amount. The exempt amount is automatically adjusted each year to reflect the change in average wages in the economy. The retirement test for those age 65-69 will rise to $9,720 in 1991 and is projected by the Congressional Budget Office to be $10,560 in 1992, $11,160 in 1993, $11,760 in 1994, and $12,480 in 1995. The retirement test for those under age 65 is currently $6,840 and will rise to $7,080 in 1991.

For earnings in excess of these amounts, beneficiaries age 65-69 lose $1 in benefits for every $3 in earnings. Beneficiaries under age 65 lose $1 in benefits for every $2 in earnings in excess of the limit. Persons age 70 years and older are not subject to the retirement test.

House bill

No provision. (H.R. 5828, as reported by the Committee on Ways and Means, includes a provision that would increase the retirement test applied to those age 65-69 by $1,800 in 1993 and $2,640 in 1994 above the level which would occur under the automatic procedure. The resulting exempt amount is projected to be $12,960 in 1993 and $14,400 in 1994. These ad hoc increases would be included permanently in the exempt amount so that automatic increases in future years would be calculated based on an inclusion of these ad hoc increases.

The provision would be effective for taxable years ending after 1990.)

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment, i.e., no provision.

29. ELIMINATION OF BENEFIT RECOMPUTATIONS FOR EARNINGS AFTER AGE 69

Present law

The amount of a worker's monthly social security retirement benefit is established at age 62. It is based on an average of the worker's lifetime earnings, using the 35 years with the highest earnings to compute the average. (For workers reaching age 62 in 1989 or earlier, fewer years are used in computing average lifetime earnings.) Earnings from years prior to the year the worker reached age 61 are indexed to reflect wage growth. A worker who does not have 35 years of earnings has a zero averaged into his or her average lifetime earnings for each year in which he or she had no wages or self-employment income.

If a worker continues to have earnings after age 61, and these earnings are higher than indexed earnings in one of the 35 years used to compute average lifetime earnings, the higher-earning year is substituted for a lower-earning year or a year with no earnings. This raises the worker's average lifetime earnings and the monthly benefit is recomputed to produce a higher benefit amount.

House bill

No provision. (H.R. 5828 includes a provision that would eliminate recomputations of benefits for beneficiaries with earnings in the year they reach age 70 or later years, except for beneficiaries with one or more "zero years" averaged into their average lifetime earnings.

The provision would be effective for recomputations of benefits on the basis of wages or self-employment income for years after 1990.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment, i.e., no provision.

30. RECOVERY OF OVERPAYMENTS FROM FORMER SOCIAL SECURITY BENEFICIARIES THROUGH TAX REFUND OFFSET

(Section 5129 of the Conference Agreement)

Present law

A Federal agency that is owed a past-due, legally enforceable debt, other than a title II overpayment, can collect it by having the Internal Revenue Service (IRS) withhold or reduce the debtor's

income tax refund. To obtain repayment via a tax refund offset, the agency to which the debt is owed must:

(i) Notify the individual of its intention to recover the debt through the tax system;

(ii) Provide the individual with at least 60 days to present evidence that all or part of the debt is not past-due or not legally enforceable; and

(iii) Consider any evidence presented by the individual and make a final determination that the debt is in fact owed and legally enforceable.

After the agency notifies the IRS of its final determination, the IRS reduces the amount of the individual's income tax refund, if any; pays this amount to the agency; and notifies the individual of the amount by which his tax refund has been reduced to repay his debt.

House bill

Social security overpayments to former beneficiaries would be recovered by withholding the amount due from Federal income tax refunds. This recovery method would be used only when benefit adjustments or direct payments by the overpaid individual have not been successful.

Specifically, the prohibition against recovering title II overpayments via a tax refund offset would be eliminated for former beneficiaries. (Current beneficiaries would continue to be exempt from the tax refund offset program.)

After being informed by the Social Security Administration (SSA) of its intention to recover an overpayment via a tax refund offset, former beneficiaries who are eligible to apply for a waiver of the overpayment would be given the opportunity to do so. In addition, the IRS would be required to establish a procedure by which a spouse could prevent his or her share of a joint tax refund from being withheld in an overpayment recovery action. The IRS would also be required to notify individuals who file joint returns of this procedure when it informs them that it is withholding their tax refund.

The proposal would take effect January 1, 1991, and would remain in effect as long as the existing Government-wide offset remains in effect (currently, until January 10, 1994).

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House provision.

31. TECHNICAL AMENDMENTS

(Section 5130 of the Conference Agreement)

The provision would correct several technical errors contained in the Social Security Act.

TITLE VII—CIVIL SERVICE AND POSTAL SERVICE PROGRAMS

STATEMENT OF MANAGERS

Title VII—Civil Service and Postal Service Programs

COMPUTER MATCHING

Senate amendment

The Senate amendment includes the text of H.R. 5450, the Computer Matching and Privacy Protection Act Amendments of 1990, which passed the House on October 1, 1990. The Senate amendment makes two changes to the Computer Matching and Privacy Protection Act of 1988. First, the bill changes the period of time required by law to notify recipients of Federal benefit programs about the results of a computer match prior to taking adverse action against individuals. Second, the Senate amendment creates an alternative to independent verification requirements set up by the 1988 law in limited circumstances.

House bill

The House bill contains no comparable provision.

Conference agreement

The House recedes to the Senate.

TITLE VIII—VETERANS' PROGRAMS

Subtitle F—Miscellaneous

Use of Internal Revenue Service and Social Security Administration data for income verification

Current law

Section 6103(l)(7) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(l)(7)) authorizes disclosure by the Internal Revenue Service of certain third-party and self-employment tax information (from the Commissioner of Social Security or the Secretary of the Treasury) to certain Federal, State, and local entities administering certain

programs under the Social Security Act (essentially Supplemental Security Income, Aid to Families with Dependent Children, and Medicaid), the Food Stamp Act of 1977, or the unemployment compensation program for purposes of income verification, but does not authorize such access to VA for verifying the eligibility of recipients of needs-based, veterans' benefits.

House bill

Section 11051 would amend paragraph (7) of section 6103(l) of the Internal Revenue Code of 1986 so as to require disclosure to VA of (a) such third-party and self-employment tax information for purposes of determining eligibility for VA needs-based pension and parents' dependency and indemnity compensation and VA health-care services based on income status, and (b) only wage and self-employment information from such returns for purposes of determining eligibility for compensation paid (pursuant to section 4.16 of title 38, Code of Federal Regulations) at the total-disability-rating level based on an individual determination of unemployability.

To the extent that VA's general operating expenses (GOE) account appropriations are insufficient to fund administrative costs to implement the program, the Secretary would be required to pay the expenses from amounts available to the Department for the payment of compensation and pension.

This provision would expire on September 30, 1992.

Senate amendment

Section 11051 is substantively identical to the House bill except that (a) the requirement to pay implementation expenses from amounts available for the payment of VA compensation and pension would not be contingent on the insufficiency of GOE funds, and (b) there would be no expiration date.

Conference agreement

Section 8051 follows the Senate amendment with respect to implementation costs and follows the House bill with respect to the expiration date.

According to CBO, the enactment of section 8051 would result in savings of $28 million in outlays in FY 1991 and total savings of $743 million in outlays in FYs 1991-1995.

Requirement for Claimants to Report Social Security Numbers; Uses Of Death Information by the Department of Veterans Affairs

Current law

Section 7(a) of the Privacy Act of 1974 (Public Law No. 93-579), prohibits any Federal agency from denying to any individual a right, benefit, or privilege provided by law because of the individual's refusal to disclose his or her Social Security number. This prohibition does not apply to any disclosure required by Federal statute.

Several statutory provisions allow VA to require disclosure of Social Security numbers (SSNs) by applicants for certain needs-based benefits or for loans made or guaranteed by VA. These provisions are implemented by section 1.575 of title 38, Code of Federal Regulations.

House bill

Section 11053 would require, upon the request of the Secretary, the disclosure of the SSNs of compensation and pension claimants and recipients and their dependents in connection with all claims for these benefits. Benefits would not be paid to an applicant or recipient who fails to provide a requested number, but no person may be required to furnish an SSN of a person who does not have one. Also, under this provision, VA would be required to compare its records regarding recipients of VA compensation or pension benefits with records of the Department of Health and Human Services in order to determine whether any recipient of these benefits is deceased.

Senate amendment

Section 11053 is substantively identical to the House bill except that it also provides that the costs of administering the program of comparing records shall be paid from the VA Compensation and Pension account.

Conference agreement

Section 8053 follows the House bill, except that the costs of administering the program would be paid from funds available for payment of compensation and pension.

According to CBO, enactment of section 8053 would result in savings of $4 million in outlays in FY 1991 and total savings of $47 million in outlays for FYs 1991-1995.

TITLE XI—REVENUE PROVISIONS

B. Modifications of Earned Income Tax Credit; Dependent Care Tax Credit

4. TAXPAYER IDENTIFICATION NUMBERS FOR CHILDREN 1 YEAR OR OLDER

Present Law

Under present law, a taxpayer is required to provide a taxpayer identification number (TIN) with respect to any dependent who has attained the age of 2 as of the close of the taxable year of the taxpayer (sec. 6109(e)).

House Bill

The House bill requires that solely for purposes of the EITC, taxpayers are required to obtain and supply a taxpayer identification number (TIN) for each qualifying child who has attained the age of 1 as of the close of the taxable year of the taxpayer.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment, except that it conforms the present-law rules requiring taxpayers to provide TINs for dependents to the proposed rules for the EITC. Under the conference agreement, a taxpayer is required to provide a TIN for any dependent who has attained the age of 1 as of the close of the taxable year of the taxpayer.

The provision is effective for taxable years beginning after December 31, 1990.

D. Other Revenue-Increase Provisions

6. EMPLOYMENT TAX PROVISIONS

a. Increase dollar limitation on amount of wages and self-employment income subject to the Medicare hospital insurance payroll tax

Present Law

As part of the Federal Insurance Contributions Act (FICA), a tax is imposed on employees and employers up to a maximum amount of employee wages. The tax is comprised of two parts: old-age, survivor, and disability insurance (OASDI) and Medicare hospital insurance (HI). For wages paid in 1990 to covered employees, the HI tax rate is 1.45 percent on both the employer and the employee on the first $51,300 of wages and the OASDI tax rate is 6.2 percent on both the employer and the employee on the first $51,300 of wages.

Under the Self-Employment Contributions Act of 1954 (SECA), a tax is imposed on an individual's self-employment income. The self-employment tax rate is the same as the total rate for employers and employees (i.e., 2.9 percent for HI and 12.40 percent for OASDI). For 1990, the tax is applied to the first $51,300 of self-employment income and, in general, the tax is reduced to the extent

that the individual had wages for which employment taxes were withheld during the year.

The cap on wages and self-employment income subject to FICA and SECA taxes is indexed to changes in the average wages in the economy. In 1991, the amount of wages or self-employment income subject to the tax will be $53,400.

House Bill

The House bill increases the cap on wages and self-employment income considered in calculating HI tax liability to $100,000. As under present law, for years beginning after 1991, this cap is indexed to changes in the average wages in the economy. The OASDI wage cap remains at the level provided under present law.

The provision is effective on January 1, 1991.

Senate Amendment

The Senate amendment is the same as the House bill, except that the cap considered in calculating HI tax liability is increased to $89,000.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment except that the cap considered in calculating HI tax liability is increased to $125,000.

b. Extend Medicare coverage of, and application of hospital insurance tax to, all State and local government employees

Present Law

Before enactment of the Consolidated Omnibus Reconciliation Act of 1985 (COBRA), State and local workers were covered under Medicare only if the State and the Secretary of Health and Human Services entered into a voluntary agreement providing for coverage under the social security and Medicare programs (OASDI and HI). In COBRA, the Congress extended Medicare coverage (and the corresponding hospital insurance payroll tax) on a mandatory basis to State and local government employees (other than students) hired after March 31, 1986.

For wages paid in 1990 to Medicare-covered employees, the total HI tax rate is 2.9 percent of the first $51,300 of wages. In 1991, the amount of wages subject to tax will be $53,400. The tax is divided equally between the employer and the employee.

House Bill

No provision.

Senate Amendment

The Senate amendment requires coverage of all employees of State and local governments under Medicare without regard to the employee's date of hire. The 2.9-percent HI payroll tax rate is phased in with respect to newly covered State and local govern-

ment employees so that the tax rate is 1.6 percent in 1992, 2.7 percent in 1993, and 2.9 percent in 1994 and thereafter. The present-law student exception is retained with respect to students employed in public schools, colleges, and universities. As under present law, coverage may be provided to such individuals at the option of the State government.

In the case of certain employees who are required to pay the HI tax as a result of the provision and who meet certain other requirements, State and local service prior to the effective date of the provision is deemed to have been covered by the HI tax for purposes of determining Medicare eligibility. Prior State and local service is counted regardless of whether such service was continuous.

Under the provision, the HI trust fund is reimbursed from the general fund of the Treasury for any additional cost arising by reason of this provision.

The Secretary of Health and Human Services is required to provide a process by which employees may provide evidence of prior State and local governmental service if such service is necessary to qualify for coverage under the program.

The provision is effective with respect to services performed after December 31, 1991.

Conference Agreement

The conference agreement does not include the Senate amendment.

c. Extend social security coverage (OASDHI) to State and local government employees not covered by a public employee retirement program

Present Law

Under present law, employees of State and local governments are covered under social security by voluntary agreements entered into by the States with the Secretary of Health and Human Services (HHS). After a State has entered into such an agreement, it may decide, or permit its political subdivisions to decide, whether to include particular groups of employees under the agreement. All States have entered into such agreements. The extent of coverage is high in some States and limited in others. Nationally, about 72 percent of State and local workers are covered by social security.

With certain exceptions, a State has broad latitude to decide which groups of State and local employees are covered under its agreement. In some cases in which States have elected not to provide coverage, a part of the workforce does not participate in any public retirement plan.

For 1990, the social security (Old Age, Survivors, and Disability Insurance) tax rate is 6.2 percent of covered wages up to $51,300 and is imposed on both the employer and employee (for a total of 12.40 percent). In 1991, the amount of wages subject to tax is $53,400.

As part of the Federal Insurance Contributions Act (FICA), a Medicare hospital insurance tax is imposed (HI). For wages paid in

1990 to covered employees, the HI tax rate is 1.45 percent on both the employer and the employee on the first $51,300 of wages.

House Bill

The House bill requires social security (Old Age, Survivors, and Disability Insurance) coverage for State and local workers who are not covered by a State voluntary agreement or a retirement system in conjunction with their employment for the State or local government and subjects the wages of such employees to the OASDI tax under the Federal Insurance Contributions Act (FICA). An exception is provided for students employed in public schools, colleges, and universities, for whom coverage may, as under present law, be provided at the option of the State government. This exception maintains parallel coverage rules for students employed by public educational institutions and those employed by private schools, colleges, and universities.

A retirement system is defined as under the definition of retirement system in the Social Security Act (42 U.S.C. sec. 418(b)(4)). Thus, a retirement system is defined as a pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof.

Whether an employee is a member (i.e., is a participant) of a retirement system is based upon whether that individual actually participates in the program. Thus, whether an employee participates is not determined by whether that individual holds a position that is included in a retirement system. Instead, that individual must actually be a member of the system. For example, an employee (whose job classification is of a type that ordinarily is entitled to coverage) is not a member of a retirement system if he or she is ineligible because of age or service conditions contained in the plan and, therefore, is required to be covered under social security. Similarly, if participation in the system is elective, and the employee elects not to participate, that employee does not participate in a system for purposes of this rule, and is to be covered under the social security system.

The Secretary of the Treasury, in conjunction with the Social Security Administration, is required to issue guidance in order to implement the purposes of this provision.

The provision is effective with respect to services performed after December 31, 1990.

Senate Amendment

The Senate amendment is the same as the House bill, except that the provision is effective with respect to services performed after December 31, 1991.

Conference Agreement

The conference agreement follows the House bill and Senate amendment, except that the provision is effective with respect to services performed after June 30, 1991.

As under the House bill and Senate amendment, an exception is provided for students employed in public schools, colleges, and uni-

versities, for whom coverage may, as under present law, be provided at the option of the State government. The conference agreement also contains other exceptions as contained in the House bill and Senate amendment (e.g., service by an election official or election worker if the remuneration paid in a calendar year for such service is less than $100).

The conference agreement follows the House bill and the Senate amendment with respect to the definition of retirement system, except that the Secretary of the Treasury and the Social Security Administration are authorized to provide guidance under which a particular plan or class of plans will not be considered a retirement system if such characterization is necessary to effectuate the purposes of this provision.

The conference agreement follows the House bill and Senate amendment in that whether an employee is a member (i.e., is a participant) of a retirement system is based upon whether that individual actually participates in the program. Thus, whether an employee participates is not determined by whether that individual holds a position that is included in a retirement system. Instead, that individual must actually be a member of the system. For example, an employee (whose job classification is of a type that ordinarily is entitled to coverage) is not a member of a retirement system if he or she is ineligible because of age or service conditions contained in the plan and, therefore, is required to be covered under social security. Similarly, if participation in the system is elective, and the employee elects not to participate, that employee does not participate in a system for purposes of this rule, and is to be covered under the social security system.

Except as otherwise provided under the conference agreement, or in guidance promulgated by the Secretary of the Treasury, rules similar to those applicable in determining whether an individual is an active participant for purposes of contributing to an individual retirement account (Code sec. 219) apply in determining whether a specific employee is a member of a retirement system.

The conference agreement extends Medicare coverage to, and applies the HI tax with respect to the wages of, those employees (otherwise not already subject to the HI tax) who become subject to OASDI by reason of this provision.

House Bill

f. Payroll tax deposit stabilization

Present Law

Treasury regulations have established the system under which employers deposit income taxes withheld from employees' wages and FICA taxes. The frequency with which these taxes must be deposited increases as the amount required to be deposited increases.

Employers are required to deposit these taxes as frequently as eight times per month, provided that the amount to be deposited

equals or exceeds $3,000. These deposits must be made within three banking days after the end of the eighth-monthly period.

Effective August 1, 1990, employers who are on this eighth-monthly system are required to deposit income taxes withheld from employees' wages and FICA taxes by the close of the applicable banking day (instead of by the close of the third banking day) after any day on which the business cumulates an amount to be deposited equal to or greater than $100,000 (regardless of whether that day is the last day of an eighth-monthly period).

For 1990, the applicable banking day is the first. For 1991, the applicable banking day is the second. For 1992, the applicable banking day is the third. For 1993 and 1994, the applicable banking day is the first. The Treasury Department is given authority to issue regulations for 1995 and succeeding years to provide for similar modifications to the date by which deposits must be made in order to minimize unevenness in the receipts effects of this provision.

House Bill

The House bill requires that deposits equal to or greater than $100,000 must be made by the close of the next banking day for all years. Thus, no change from present law is necessary for calendar year 1990, but for calendar years 1991 and 1992 deposits are accelerated. The regulatory authority provided to the Treasury Department is repealed. The provision is effective for amounts required to be deposited after December 31, 1990.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

E. Extend Expiring Tax Provisions Through 1991

3. EXCLUSION FOR EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE

Present Law

Under present law, an employee (including a self-employed individual) must include in income and wages, for income and employment tax purposes, the value of educational assistance provided by an employer to the employee, unless (1) the cost of such assistance qualifies as a deductible job-related expense of the employee (secs. 132, 162) or (2) the educational assistance is provided under an educational assistance program that meets certain requirements (sec. 127).

The exclusion for educational assistance benefits provided pursuant to an educational assistance program described in section 127 expired for taxable years beginning after September 30, 1990. Only amounts paid before October 1, 1990, in a taxable year beginning in 1990 are taken into account in determining the amount of the exclusion.

No more than $5,250 of educational assistance benefits provided during any calendar year can be excluded from the income of an employee. In addition, the exclusion for educational assistance benefits does not apply to graduate level courses. Specifically, the exclusion does not apply to any payment for, or the provision of any benefits with respect to, any course taken by an employee who has a bachelor's degree or is receiving credit toward a more advanced degree if the particular course can be taken for credit by any individual in a program leading to a law, business, medical, or other advanced academic or professional degree.

To the extent that employer-provided educational assistance is not excludable from income because it exceeds the maximum dollar limitation or because of the limitation on graduate-level courses, it may be excludable from income as a working condition fringe benefit (sec. 132(d)), provided the requirements of that section are otherwise satisfied (e.g., the education is job related as defined under sec. 162).

House Bill

No provision.

Senate Amendment

The Senate amendment extends the exclusion for employer-provided educational assistance benefits through taxable years begin-

ning before January 1, 1992. The special rule limiting the exclusion in the case of a taxable year beginning in 1990 is repealed. In addition, the restriction on graduate level courses is repealed.

The provision generally is effective for taxable years beginning after December 31, 1989, except that the repeal of the restriction on graduate level courses is effective for taxable years beginning after December 31, 1990.

Conference Agreement

The conference agreement follows the Senate amendment.

4. EXCLUSION FOR EMPLOYER-PROVIDED GROUP LEGAL SERVICES; TAX EXEMPTION FOR QUALIFIED GROUP LEGAL SERVICES ORGANIZATIONS

Present Law

Under present law, amounts contributed by an employer to a qualified group legal services plan for an employee (or the employee's spouse or dependents) are excluded from the employee's gross income for income and employment tax purposes (sec. 120). The exclusion also applies to any services received by an employee (or the employee's spouse or dependents) or any amounts paid to an employee under such a plan as reimbursement for the cost of legal services for the employee (or the employee's spouse or dependents). The exclusion is limited to an annual premium value of $70. In order to be a plan under which employees are entitled to tax-free benefits, a group legal services plan is required to fulfill certain requirements. One such requirement is that group legal services benefits may not discriminate in favor of highly compensated employees in certain respects.

The exclusion for group legal services benefits expired for taxable years beginning after September 30, 1990. Only amounts paid before October 1, 1990, in taxable years beginning in 1990 for coverage before October 1, 1990, are taken into account in determining the amount of the exclusion for the year.

In addition, present law provides tax-exempt status for an organization the exclusive function of which is to provide legal services or indemnification against the cost of legal services as part of a qualified group legal services plan (sec. 501(c)(20)). The tax exemption for such an organization expired for taxable years beginning after September 30, 1990.

House Bill

No provision.

Senate Amendment

The Senate amendment extends the exclusion for employer-provided group legal services and the tax exemption for qualified group legal services organizations through taxable years beginning before January 1, 1992. In addition, the special rule limiting the exclusion in the case of taxable years beginning in 1990 is repealed.

The provision is effective for taxable years beginning after December 31, 1989.

Conference Agreement

The conference agreement follows the Senate amendment.

G. Other Provisions

4. ACCESS TO TAX INFORMATION BY THE DEPARTMENT OF VETERANS AFFAIRS

Present law

The Internal Revenue Code prohibits disclosure of tax returns and return information of taxpayers, with exceptions for authorized disclosure to certain Governmental entities in certain enumerated instances (Code sec. 6103). Unauthorized disclosure is a felony punishable by a fine not exceeding $5,000 or imprisonment of not more than five years, or both (sec. 7213). An action for civil damages also may be brought for unauthorized disclosure (sec. 7431).

Among the disclosures permitted under the Code is disclosure of return information to Federal, State, and local agencies administering certain programs under the Social Security Act or the Food Stamp Act of 1977. This disclosure, pursuant to a written request by the agency, is for the purpose of determining eligibility for, and the correct amount of benefits under, certain enumerated programs. Any authorized recipient of return information must maintain a system of safeguards to protect against unauthorized redisclosure of the information.

House Bill

The House bill allows disclosure of certain third-party and self-employment tax information to the Department of Veterans Affairs (DVA) to assist DVA in determining eligibility for, and establishing correct benefit amounts under, certain of its needs-based pension and other programs. Thus, the DVA will have direct access to information on the types and amounts of income received by vet-

erans. The income tax returns filed by the veterans themselves will not be disclosed to DVA.

The DVA is required to comply with the safeguards presently contained in the Code and in section 1137(c) of the Social Security Act (governing the use of disclosed tax information). These safeguards include independent verification of tax data, notification to the individual concerned, and the opportunity to contest agency findings based on such information.

The House bill is effective on the date of enactment. Information disclosed pursuant to this provision may not be used to reduce, deny, or otherwise affect any benefit provided before the date of enactment.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment, with technical modifications. The provision expires in two years. GAO is required to do a detailed report on the effects of the provision.

TITLE XIII—BUDGET ENFORCEMENT

BUDGET ENFORCEMENT ACT OF 1990

The conference agreement adds new enforcement mechanisms for discretionary spending entitlements, and recepits to preserve the deficit reduction achieved by this Act over the next five years. The conference agreement adds a pay-as-you-go mechanism to ensure that any new entitlement or receipt legislation will not increase the deficit. The conference agreement also sets forth limits (caps) on discretionary spending provided in the annual appropriations process for each of fiscal years 1991 through 1995, and enforces these through a mechanism to require across-the-board cuts within any category to make up for any overages. To enforce deficit targets in fiscal years 1994 and 1995, the conference agreement extends the existing Gramm-Rudman-Hollings mechanism through fiscal year 1995, but with new procedures to allow adjustment for revised economic and technical estimates, in 1994 and 1995 at the President's option.

I. ENFORCING DISCRETIONARY SPENDING LIMITS

Current law

Under the Congressional Budget Act of 1974, the Senate and the House of Representatives limit discretionary spending primarily through overall allocations to their respective Appropriations Committees in the joint statement of the managers accompanying the concurrent resolution on the budget. These allocations, made pursuant to section 302(a) of the Congressional Budget Act of 1974, are sometimes called "302(a)s" or "crosswalks." All committees must then divide these allocations among their subcommittees or programs. The Committees on Appropriations—which have jurisdiction over discretionary spending—must divide the allocations among their 13 subcommittees (including their Subcommittees on Defense and on Foreign Operations) under section 302(b) of the Congressional Budget Act. A point of order (requiring 60 votes to waive in the Senate and a simple majority to waive in the House) lies against any legislation that would cause spending to exceed these subdivided limits.

House bill

The House bill sets forth, in a new section of the Congressioal Budget Act, limits for discretionary spending in three categories—defense, international, and domestic—for fiscal years 1991 through 1993, and in one category—discretionary spending—for fiscal years 1994 and 1995. The House bill creates a new mechanism for across-the-board cuts—called "sequestration"—within a category if discretionary spending for a fiscal year exceeds spending in that category. The President orders these cuts for that fiscal year within 15 days after the end of a session. Under a "look-back" procedure, if

35-428 0 - 90 - 37

legislation is enacted for that fiscal year in the next session that causes spending to exceed a category's limit, then the applicable spending limits for the next fiscal year are reduced accordingly, and a further sequestration occurs unless appropriations legislation adjusts spending downward.

The initial limits proposed by the House include separate amounts of new budget authority and outlays by category (for fiscal years 1991 through 1993) and by total (for fiscal years 1994 and 1995).

The House bill provides that the President shall adjust the spending limits in the annual budget submission for changes in concepts and definitions, inflation, credit reestimates, Internal Revenue Service compliance funding, debt forgiveness, International Monetary Fund funding, Presidentially-determined emergencies, and for limited defined special allowances.

Senate amendment

The Senate amendment sets forth as a freestanding part of the Omnibus Budget Reconciliation Act of 1990 limits for discretionary spending in the same categories and for the same years as in the House bill. The Senate amendment also creates a new mechanism for across-the-board cuts—called "sequestration"—within a category if discretionary spending exceeds spending for that category. In the Senate amendment, however, the President orders these cuts on November 15 for appropriations bills enacted before November 1 or after June 30 of a fiscal year, or 15 days after enactment for bills enacted between October 31 and July 1.

The initial limits on discretionary spending proposed by the Senate are the same as those proposed by the House. As does the House bill, the Senate amendment provides that the President may adjust the spending limits in the annual budget submission for changes in inflation, credit reestimates, Internal Revenue Service compliance funding, International Monetary Fund funding, Presidentially-determined emergencies, and for limited defined special allowances.

The Senate amendment allows for changes in the definition of "budget authority" (which it changes elsewhere)—but not changes in other concepts and definitions, and allows for adjustment for debt forgiveness for the Arab Republic of Egypt and the Polish government—but not other debts.

Conference agreement

The conference agreement establishes the limits on discretionary spending by category, as proposed by the House and Senate, as a new title VI of the Congressional Budget Act of 1974.

The initial limits on discretionary spending are as follows (in billions of dollars):

	Fiscal year—				
	1991	1992	1993	1994	1995
Defense:					
Budget authority	288.918	291.643	291.785		
Outlays	297.660	295.744	292.686		

	Fiscal year—				
	1991	1992	1993	1994	1995
International:					
Budget authority	20.100	20.500	21.400		
Outlays	18.600	19.100	19.600		
Domestic:					
Budget authority	182.700	191.300	198.300		
Outlays	198.100	210.100	221.700		
Total discretionary:					
Budget authority				510.800	517.700
Outlays				534.800	540.800

The President shall adjust the spending limits according to the method proposed by the House, except with regard to limited defined special allowances. The conference agreement accepts the Senate approach for adjustments for the International Monetary Fund and debt forgiveness. The special allowances authorize the President to adjust the spending limits for new budget authority and associated outlays by specified percentages, depending on the spending category and the fiscal year. Outlay limits for categories of discretionary spending also shall be increased by specified dollar amounts so long as the budget authority limits for the applicable categories are not breached; this special outlay allowance insulates the legislative process from estimating differences.

The conference agreement accepts a compromise mechanism for initiating across-the-board spending cuts if discretionary spending limits are breached. During the session in which the fiscal year begins, the enactment of legislation causing a breach in the spending limits of any category would trigger a presidential sequestration order that would impose across-the-board cuts in that category bringing spending down to the established limits. This presidential sequestration order would be issued within 15 days after the end of a session of Congress. During the following session, the enactment of legislation causing a breach in the spending limits would trigger sequestration 15 days after enactment if the legislation were enacted before July 1, or would reduce the applicable spending limits for the next fiscal year by the amount of the breach if the legislation were enacted on or after July 1.

II. ENFORCING PAY-AS-YOU-GO

Current law

Under current law, the Senate and the House of Representatives limit entitlements through spending allocations to their respective authorizing committees in the joint statement of the managers accompanying the concurrent resolution on the budget, just as with discretionary spending. A point of order (requiring 60 votes to waive in the Senate and a simple majority to waive in the House) lies against any new entitlement program that would cause spending to exceed limits that flow from these allocations. Similarly, the concurrent resolution on the budget sets a revenue floor, and a point of order (requiring 60 votes to waive in the Senate and a simple majority to waive in the House) lies against any tax-cutting

legislation that would cause revenues to fall below the floor in the resolution.

House bill

The House bill creates a new "pay-as-you-go" mechanism to require across-the-board cuts in those entitlement programs subject to Gramm-Rudman-Hollings if new entitlement spending or tax-cutting legislation increases the deficit. The President orders these cuts on October 15—the same date that a final sequestration order is issued pursuant to Gramm-Rudman-Hollings. The House bill cuts the first $5 billion in excess solely from entitlement programs now covered by Gramm-Rudman-Hollings. In the case of any excess above $5 billion, the House would cut 50 percent of the further excess from entitlement and 50 percent from discretionary spending.

Senate amendment

The Senate amendment creates a mechanism similar to the House bill, except that the President orders these cuts on November 15, and makes the across-the-board cuts solely in entitlement programs now covered by Gramm-Rudman-Hollings. Discretionary programs would not be reduced through the pay-as-you-go sequester.

Conference agreement

The conference agreement makes across-the-board cuts only in non-exempt entitlement programs, as in the Senate amendment. These cuts are ordered on the same day as the discretionary spending and deficit sequestrations. The conference agreement includes a provision for emergency direct spending or receipts legislation, which would not be subject to the pay-as-you-do requirement.

Section 252(b)(1) of the conference agreement excludes from the pay-as-you-go sequester procedure legislation maintaining the deposit insurance guarantee in effect on the date of enactment. The conferees intend that the funding to meet deposit insurance liabilities that meet existing commitments be exempt from any pay-as-you-go sequestration.

III. REVISING AND ENFORCING DEFICIT TARGETS

Current law

Gramm-Rudman-Hollings established deficit targets ("maximum deficit amounts") in 1985 and the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 revised them as follows (in billions of dollars):

	1985 law	1987 revision
Fiscal year:		
1986	171.9	.....
1987	144	.....
1988	108	144
1989	72	136
1990	36	100
1991	0	64
1992		28
1993		0

Gramm-Rudman-Hollings enforces these targets, based on projections of the deficit, through across-the-board cuts on October 15. The cuts cancel non-exempt budgetary resources to achieve outlay savings sufficient to reduce the deficit to the maximum deficit amount. Under section 301(i) of the Congressional Budget Act, budget resolutions must also meet these maximum deficit amount targets or be subject to a point of order (that requires 60 votes to waive in the Senate and a three-fifths majority to waive in the House). Gramm-Rudman-Hollings expires on September 30, 1993. For a discussion of current law, see the conference report to accompany H.J. Res. 324 (Increasing the Statutory Limit on the Public Dept), House Report 100-313 (September 21, 1987), 100th Cong. 1st Sess., pages 42-62.

House bill

The House bill revises the deficit targets as follows (in billions of dollars):

	Current law	House bill
Fiscal year:		
1986	171.9	
1987	144	
1988	144	
1989	136	
1990	100	
1991	64	302.3
1992	28	276.8
1993	0	189.7
1994		58.1
1995		18.7

The House bill amends Gramm-Rudman-Hollings to provide for sequestration in a manner similar to current law, except that for fiscal years 1991 through 1993 the President must annually revise the targets for changes in economic and technical assumptions occurring since the last year. As a consequence, during those years, the sequester covers only changes caused by legislative actions. The consequences of those actions, however, are addressed by the new mechanisms for enforcement of the discretionary spending limits and pay-as-you-go. Thus, during the first three years covered by the House bill, this should not require the President to order cuts under the conventional Gramm-Rudman-Hollings process. For fiscal years 1994 and 1995, the House bill authorizes (but does not require) the President to continue the process of adjustment for economic and technical changes, but continues a process similar to the current Gramm-Rudman-Hollings for those years if the President chooses not to make such adjustments.

Senate amendment

The Senate amendment revises the deficit targets as follows (in billions of dollars):

	Current law	Senate Amendment
Fiscal year:		
1986	171.9	
1987	144	
1988	144	
1989	136	
1990	100	
1991	64	242
1992	28	219
1993	0	165
1994		86
1995		62

The Senate amendment retains much of the language of the existing Gramm-Rudman-Hollings, but adopts a process similar to the House bill for annual adjustment of the deficit targets.

The revised deficit targets proposed by the Senate differ from those proposed by the House because of differences in economic and technical assumptions.

Conference agreement

The conference agreement revises the deficit targets (as a new section of the Congressional Budget Act of 1974) as follows (in billions of dollars):

	Current law	House bill
Fiscal year:		
1986	171.9	
1987	144	
1988	144	
1989	136	
1990	100	
1991	64	327
1992	28	317
1993	0	236
1994		102
1995		83

The conference agreement incorporates the procedures proposed by the House under which the President must adjust the deficit targets for fiscal years 1991 through 1993 and may adjust the target for fiscal years 1994 and 1995. The deficit targets established reflect current economic projections and the removal of Social Security trust fund balances from the deficit calculation. These deficit targets will be adjusted for further updated economic and technical factors through fiscal year 1993.

IV. RESTORATION OF FUNDS SEQUESTERED

Current law

Under current law, an initial sequestration order, issued August 25, withholds budgetary resources at the sequestered levels effective October 1. A final sequestration order, issued October 15, permanently cancels budgetary resources, effective that date, and supersedes the initial sequestration order. After their issuance, initial and final sequestration orders can be rescinded and sequestered funds restored only upon the enactment of a law specifically directing those actions. The sequester for fiscal year 1991 was suspended temporarily by four continuing appropriations measures enacted in October: H.J. Res. 655 (P.L. 101-403), H.J. Res. 666 (P.L. 101-412), H.J. Res. 677 (P.L. 101-444), and H.J. Res. 681 (P.L. 101-461).

House bill

The House bill rescinds both the initial and final sequestration order for fiscal year 1991, reverses any action taken to implement the orders, and restores any sequestered budgetary resources.

Senate amendment

The Senate amendment proposes identical language.

Conference agreement

The conference agreement incorporates the House and Senate language rescinding the fiscal year 1991 sequester and restoring sequestered amounts.

V. SEQUESTRATION REPORTS AND ORDERS

Current law

Under current law, the Directors of the Office of Management and Budget and the Congressional Budget Office issue initial and revised sequestration reports each year in August and October which estimate the baseline deficit for the fiscal year, determine whether the deficit target has been exceeded, and calculate the percentages and amounts by which spending in non-exempt accounts must be reduced to lower the estimated deficit to the target level.

The Office of Management and Budget Director's initial and revised sequestration reports trigger initial and final presidential sequestration orders which implement any required sequestration reductions specified in the reports (the Congressional Budget Office reports are advisory). The General Accounting Office also issues a compliance report in November, which is also advisory. Through fiscal year 1992, a sequestration order is triggered if the baseline deficit exceeds the deficit target by more than $10 billion. For fiscal year 1993, when the target is zero, any deficit excess would trigger sequestration. The sequestration process expires at the end of fiscal year 1993. The President's sequestration orders must comply fully with the Office of Management and Budget Director's reports.

Sequestration reports and orders are issued only in August and October each year. There are no procedures for issuing additional or revised reports and orders to eliminate any excess deficit that occurs after the sequestration process for a fiscal year has been

completed. Further, if sequestration is triggered, it applies to all non-exempt accounts. The only categorization is that one-half of the reductions are made in defense programs, with the other half coming from non-defense programs. There are no separate or specialized reporting requirements or presidential orders for other categories of spending.

House bill

The House bill establishes new sequestration reporting requirements and presidential sequestration orders to implement the discretionary spending sequester (enforcing the discretionary spending categories), the pay-as-you-go sequester (enforcing the deficit-neutrality of mandatory spending and receipt legislation), and the deficit sequester (enforcing the deficit targets).

The bill establishes the following timetable for sequestration reports and orders:

On or before	Action to be completed
First Monday in February	Lock in the Office of Management and Budget estimating assumptions.
August 15	Initial snapshot.
August 20	Sequester preview.
Latest possible date before October 15	Final snapshot.
October 15	Pay-as-you-go and deficit sequester reports; Presidential order.
Within 15 days after end of session	Discretionary sequester reports; Presidential order.
30 days later	GAO compliance report.

On August 20, both the Congressional Budget Office and the Office of Management and Budget Directors issue sequester preview reports to the President and Congress for the pay-as-you-go and deficit sequesters for the fiscal year. For the pay-as-you-go sequester preview, the reports must set forth the change in the deficit for the fiscal year caused by the enactment of direct spending and receipts legislation, identify each law included in the estimate, and calculate the appropriate sequester percentage. For the deficit sequester, the reports must estimate the baseline deficit for the fiscal year, any deficit excess, the deficit margin, any deficit excess remaining after the pay-as-you-go sequester has been made, and calculate the specified reductions required to eliminate any remaining deficit excess.

On October 15, the Office of Management and Budget and Congressional Budget Office Directors issue revised pay-as-you-go and deficit sequester reports updated to reflect laws enacted through the final snapshot date and containing all the information required in the sequester preview reports. If the revised Office of Management and Budget report indicates that any pay-as-you-go and deficit sequester is required, the President shall issue an order on the same date implementing the sequester without change.

Within 15 days after the end of the session, the Congressional Budget Office and Office of Management and Budget Directors issue discretionary spending sequestration reports to the President and Congress. In general, the reports shall explain any adjustments made in the discretionary spending limits for budget authority and outlays for each fiscal year through fiscal year 1995, specify

any breach in the discretionary categories for the current year and the budget year, and calculate the sequestration necessary to achieve the required reduction. If the Office of Management and Budget report indicates that any discretionary sequester is required, the President shall issue an order on the same date implementing the sequester without change.

Within 30 days of the issuance of the discretionary spending sequester report and order, the General Accounting Office (GAO) shall submit to the President and Congress a compliance report on all the sequester reports and orders issued for the fiscal year.

Senate amendment

The Senate amendment provides that the estimates and determinations necessary to implement the new pay-as-you-go sequester and any deficit sequester shall be issued as part of the initial and revised sequestration reports required under current law. However, the Senate amendment changes the dates of submission for these reports. For the Congressional Budget Office, the initial sequestration report is due on January 27 (March 10 in years in which a new President is inaugurated) and the revised report is due on November 10 (the Congressional Budget Office reports remain advisory). For the Office of Management and Budget, the initial sequestration report is due simultaneously with submission of the President's budget—February 1 in most years, and March 15 in years in which a new President is inaugurated—and the revised report is due on November 15. An initial sequestration order would be issued simultaneously with the initial report and become effective on October 1. A final sequestration order would be effective November 15.

For discretionary spending sequestration, the Senate amendment requires both the Congressional Budget Office and the Office of Management and Budget to report to the President within 5 days after enactment of an appropriations act. The reports must determine whether any of the discretionary spending categories have been exceeded as a result of the act, and, if necessary, calculate the amounts and percentages by which spending in the affected categories must be reduced in the appropriate category to eliminate any excess. If the Office of Management and Budget report calculates a discretionary spending sequestration, the President must issue an order implementing the sequestration reductions—within 15 days if the measure is enacted before June 30, and on November 15 if the measure is enacted between June 30 and November 1.

Conference agreement

As soon as possible after Congress completes action on a discretionary spending, direct spending, or revenue bill, and after consultation with the budget committees, the Congressional Budget Office (CBO) is to provide the Office of Management and Budget (OMB) with an estimate of the bill's effect on spending and revenues. Within 5 days after the bill's enactment, OMB transmits to the Congress its own estimate of the bill's budgetary impact. OMB is required to explain differences between its estimates and those of CBO. OMB is also required to use its bill estimates in subsequent sequestration reports.

The timetable for sequestration reports and orders is as follows:

Date	Action
5 days before the budget	CBO sequestration preview report.
President's budget submission	OMB sequestration preview report.
August 15	CBO sequestration update report.
August 20	OMB sequestration update report.
10 days after end of session	CBO final sequestration report.
15 days after end of session	OMB final sequestration report.
30 days later	GAO compliance report.

This timetable continues the feature of current law in which CBO issues its reports 5 days before OMB, and OMB is required to explain differences between its estimates and those of OMB.

All 3 sequestration reports will contain updated estimates of the maximum deficit amount and the discretionary spending limits for each category. They will also contain estimates of any net deficit increase or decrease (under the pay-as-you-go provisions), any excess deficit (compared to the deficit target), and the sequestration reductions and percentages necessary to eliminate a deficit increase or excess deficit. The final sequestration reports will include estimates of new budget authority and outlays for each discretionary spending category, the amounts of any breach in the discretionary spending limits, and the sequestration percentages necessary to eliminate a breach. In addition, the final reports will contain, for each budget account to be sequestered, estimates of the baseline level of sequestrable budgetary resources and outlays and the required reductions.

An extra pair of sequestration reports and an additional Presidential order will be required if, after the final sequestration report but before July 1, enactment of an appropriation bill causes a discretionary spending breach. These within-session sequestration reports are to contain the same information regarding discretionary spending as a final end-of-session sequestration report.

VI. TREATMENT OF SOCIAL SECURITY

Current law

Under current law, the Social Security trust funds are off-budget but are included in deficit estimates and calculations made for purposes of the sequestration process. However, Social Security benefit payments are exempt from any sequestration order.

Section 310(g) of the Congressional Budget Act of 1974 prohibits the consideration of reconciliation legislation "that contains recommendations" with respect to Social Security. (A motion to waive this point of order requires 60 votes in the Senate and a simple majority in the House.)

House bill

The House bill reaffirms the off-budget status of Social Security and removes the trust funds—excluding interest receipts—from the deficit estimates and calculations made in the sequestration process. The House bill retains the current law exemption of Social Security benefit payments from any sequestration order.

The House bill creates a "fire wall" point of order (as free-standing legislation) to prohibit the consideration of legislation that would change the actuarial balance of the Social Security trust funds over a 5-year or 75-year period. In the case of legislation decreasing Social Security revenues, the prohibition would not apply if the legislation also included an equivalent increase in Medicare taxes for the period covered by the legislation.

Senate amendment

The Senate amendment also reaffirms the off-budget status of Social Security and removes the trust funds from the deficit estimates and calculations made in the sequestration process. However, unlike the House bill, the Senate amendment removes the gross trust fund transactions—including interest receipts—from the sequestration deficit calculations. The Senate amendment also retains the current law exemption of Social Security benefit payments from any sequestration order.

The Senate amendment also creates a procedural fire wall to protect Social Security financing, but does so by expanding certain budget enforcement provisions of the Congressional Budget Act of 1974. The Senate amendment expands the prohibition in Section 310(g) of the Budget Act to specifically protect Social Security financing, prohibits the consideration of a reported budget resolution calling for a reduction in Social Security surplus, and includes Social Security in the enforcement procedures under Sections 302 and 311 of the Budget Act. The Senate amendment also requires the Secretary of Health and Human Services to provide an actuarial analysis of any legislation affecting Social Security, and generally prohibits the consideration of legislation lacking such an analysis.

For more on the budgetary treatment of Social Security under current law and historically, see SENATE COMM. ON THE BUDGET, SOCIAL SECURITY PRESERVATION ACT, S. REP. NO. 101-426, 101ST Cong. 2d Sess. (1990).

Conference agreement

The conference agreement incorporates the Senate position on the budgetary treatment of the Social Security trust funds, reaffirming their off-budget status and removing all their transactions from the deficit estimates and calculations made in the sequestration process.

Further, the conference agreement provides that the "fire wall" procedure proposed by the House shall apply only to the House and that the "fire wall" procedures proposed by the Senate shall apply only to the Senate.

VII. CREDIT REFORM

Current law

The credit programs of the Federal Government are displayed in the budget on a cash accounting basis. Cash accounting overstates the real economic cost of direct loan programs and understates the real economic costs of loan guarantee programs in the year loans are made.

House bill

The House bill provides for a revised system of accounting for Federal credit programs that requires the appropriation of budget authority equal to the cost to the government, which is the estimated net present value of the cash flows associated with federal direct loan and loan guarantee programs. The revised accounting would also apply to any modifications in the costs of outstanding direct loans or loan guarantees. An exception from the requirement for an appropriation is provided for existing entitlement credit programs and the credit activities of the Commodity Credit Corporation. The credit program cost estimates will not include administrative expenses, but these expenses will be displayed in the program account as a separate subaccount on a cash basis. All of the residual cash flows associated with direct loan and loan guarantee programs not included in the cost to the government estimate would be non-budgetary and treated as means of financing.

The House bill gives the Director of the Office of Management and Budget (OMB) the authority to make credit cost estimates for the Executive Branch. The OMB Director could also delegate such authority to any Federal agency through written guidelines. The Director of the OMB would have access to necessary data from the Federal agencies and has a mandate to work with the Congressional Budget Office to improve cost estimates through an annual review process. The House bill authorizes the President to establish the necessary non-budgetary accounts and the Secretary of the Treasury to borrow from, receive from, lend to, or pay to such amounts as may be appropriate to these non-budgetary accounts. These transactions will be subject to the Antideficiency Act. The House bill also authorizes the funds necessary to implement this change in credit accounting.

The House bill makes credit reform effective starting in fiscal year 1992 and provides that direct loans and loan guarantees made before this date shall be reflected in the budget on a cash basis. The House also provides permanent indefinite authority to liquidate the loan obligations and guarantee commitments made prior to October 1, 1991.

The House bill also calls for a study by the OMB and the CBO concerning whether the accounting for Federal deposit insurance programs should be made on a cash basis, on the same basis as loan guarantees, or on some other basis.

Finally, the House bill would no longer require the inclusion of credit authority amounts in budget resolutions, allocations, costs estimates, or any other document related to the Budget Act.

Senate amendment

The Senate amendment states that the purposes of credit reform is to measure accurately the costs of Federal credit programs, place the cost of credit programs on a budgetary basis equivalent to other Federal spending, encourage the delivery of benefits in the form most appropriate to the needs of beneficiaries, coordinate accounting and review of credit programs by CBO and OMB, and enhance the Congressional oversight of credit programs.

The Senate amendment defines "Federal agency", "direct loan", "direct loan obligation", "loan guarantee", "loan guarantee commitment", "cost to the government", "subsidy account", "financing account", and "liquidating account". Of particular note, the "cost to the government" was defined as the estimated long-term net present value of a loan guarantee. The Senate bill emphasized the variety of cash flows to be estimated by listing the specific contractual cash flows to be measured and the variations to the contractual cash flows that could occur.

The Senate amendment made it the responsibility of the Director of OMB to estimate the costs to the government of federal credit programs, establish reporting requirements by the agencies, and monitor agency performance with respect to credit programs. In developing the estimates, the Senate mandates coordination with the CBO and consultation with the Congress. Any changes to the estimating criteria are to be reported to the Congress. CBO and OMB are to study the differences in long-term administrative costs for credit programs vis-a-vis grant programs.

The Senate amendment requires that the executive budget submission include both direct loan obligation and loan guarantee commitment levels, and the estimated cost to the government of these credit levels. No direct loan or loan guarantee or modification of an outstanding loan could be made without appropriations in advance.

The Senate Amendment lays out the responsibilities of each Federal Agency to make timely submissions of credit data, make annual requests for credit appropriations, use due diligence in carrying out responsibilities for credit programs under the new credit cost controls, and maintaining the reserves of the financing accounts. And applied the 302(f)(2) point of order to credit limitations in the Senate for fiscal year 1991. The point of order would sunset with the effective date of credit reform. The financing accounts were made exempt from sequestration.

Section 1107 lays out the budgetary treatment of federal credit programs. The cost to the government of direct loan and loan guarantee programs will be carried in the appropriate budget function. The financing accounts will be treated as a means of financing, but their aggregated activity will be displayed in the budget documents in a function known as "credit financing activities". The section makes it clear that the financing activities are off-budget and not subject to budget act points of order.

Section 1108 provided the authority necessary for appropriations of budget authority for the cost to the government. The head of each Federal agency has authority to issue notes to the Secretary of the Treasury should the resources of the financing accounts prove insufficient to meet the obligations of the financing account. The Secretary of the Treasury has authority to set the terms and conditions of such borrowings. The Senate bill authorizes appopriations for the funding needs of the liquidating accounts and authorized appropriations for the salaries and expenses necessary to carry out credit reform.

Deposit insurance programs and other government insurance programs are excluded from credit reform. OMB and CBO are di-

rected to study the applicability of credit reform to the excluded programs and to Government Sponsored Enterprises.

Nothing in the Senate bill is to be construed as limiting existing mandatory credit authorities nor establishing a limit on existing credit programs. Nor does the Senate bill contemplate changing the existing authorities for the liquidation of obligations made prior to enactment of credit reform. Excess funds in the liquidating accounts are to be transferred to the Treasury on at least an annual basis.

Credit reform is made effective for fiscal year 1992. OMB is to submit an explanation of its credit reform methodology with its annual budget submission; CBO is to include the cost to the government for all reported bills.

The Senate amendment defines a government sponsored enterprise (GSE) to emphasize that to qualify as a GSE and thereby escape budget act treatment, a GSE must: have a federal charter; be privately owned; be controlled by a board of directors elected by the owners; and be a financial institution with powers to make loans, guarantee loans, issue debt, or guarantee the debt of others. Further, a GSE could not exercise powers that are reserved to the Government (eg. taxing powers or regulating interstate commerce), commit the Government financially, or employ federal civil servants.

The Senate amendment creates a new point of order that will lie against legislation that did not provide a subsidy appropriation for the cost to the government of credit activities and applied the 302(f)(2) point of order to credit limitations in the Senate for fiscal year 1991. The 302(f)(2) point of order will sunset with the effective date of credit reform. The financing accounts were made exempt from sequestration.

Conference agreement

The conference agreement indicates that the purpose of credit accounting reform is to measure more accurately the costs of Federal direct loan and loan guarantee programs, to place the cost of those programs on a basis equivalent to other spending, to encourage more efficient delivery of Federal assistance, and to improve the allocation of resources between credit and other spending programs. The conference agreement also substantially accepts the definitions in the Senate bill.

The conference agreement requires that, starting with fiscal year 1992, the budget cost of credit programs be the net present value of the long-term costs to the Government, excluding administrative costs and incidental effects on governmental receipts and outlays. All of the other cash flows resulting from credit programs will be treated as means of financing and included in non-budgetary financing accounts. The cash flows resulting from direct loan obligations and loan guarantee commitments made prior to fiscal year 1992 will be reflected in the budget on a cash flow basis.

The conference agreement provides that the Director of the Office of Management and Budget will be responsible for coordinating credit cost estimates for the executive branch and may delegate that authority to other agencies based upon written guidelines. The Director of the Office of Management and Budget is to consult with

the Director of the Congressional Budget Office in developing guidelines for credit cost estimates and in reviewing and improving those estimates.

The conference agreement requires the appropriation of new budget authority to cover the cost of direct loan and loan guarantee programs before new assistance can be provided. An exception to this requirement is provided for entitlement credit programs (such as the guaranteed student loan program and veteran's home loan guaranty program) and for the credit programs of the Commodity Credit Corporation. The agreement also provides that budget authority must be available to cover the cost of modifying any outstanding direct loan or loan guarantee. Administrative expenses for credit programs will continue to be counted on a cash flow basis, but displayed in a separate subaccount within the account for the credit program.

In a few cases, the cost to government of a loan or guarantee may be zero or negative. In such case, it is still necessary for appropriations bills to provide specific authority before loans could be made. Providing such authority will generate an off-setting receipt (negative budget authority and outlays) which would be credited to the appropriations committees and count against discretionary spending limits.

The conference agreement provides that, if initial estimates of the costs of credit activity are determined to be incorrect, reestimates are recorded on the budget as soon as possible. These reestimates will take the form of payments from the Treasury to the financing accounts or vice versa. The reestimate is discounted back to the time when the loan was disbursed; the discounted portion is charged to the program account (as a mandatory) and the rest is charged to net interest.

The conference agreement provides authority for the Secretary of the Treasury to conduct the transactions necessary to maintain the non-budgetary financing accounts.

As part of the transition provisions, new credit authority is made subject to a 302 point of order in the Senate in fiscal year 1991. However, the agreement sunsets this point of order in both houses in 1992.

If excesses were to develop in the financing accounts, the agreement presumes that these excesses would revert to the Treasury. These excesses do not include balances necessary to maintain adequate reserves, achieve mandated capital levels, or preserve the mutuality of certain credit programs.

The financing accounts are made subject to the Antideficiency Act. However, Federal agencies will continue to administer and operate direct loan and loan guarantee programs as they do now. Permanent indefinite authority is provided to make any payments required to liquidate direct loan obligations and loan guarantee commitments made prior to fiscal year 1992. The agreement provides an authorization to cover the administrative expenses of implementing credit accounting reform. Finally, the activities of Federal insurance programs are excluded from credit accounting reform, but the Director of the Office of Management and Budget and the Director of the Congressional Budget are required to study whether the accounting for Federal deposit insurance programs should be a

cash basis, on the same basis as loan guarantees, or on a different basis.

VIII. GOVERNMENT SPONSORED ENTERPRISES

Current law

Congress has created several Government-sponsored enterprises or GSEs to help make credit more reliably available to farmers, homeowners, colleges, and students. Through federal charters provided in statute, GSEs are privately owned and operated, limited in their activities to specific economic sectors, and given certain benefits that help them accomplish their goals.

Due to the public missions described in the charters of these entities, the Government does have an interest in the activities of the GSEs. While there is no explicit Federal backing for the GSEs, in 1987, the Government infused significant additional resources into the Farm Credit System when the system had financial difficulties. This Government financial assistance to a GSE and the problems of the Savings and Loan sector have generated increased interest in Congressional oversight of the GSEs.

House bill

Section 13501(a), of the House bill defined GSEs for this legislation to include the Farm Credit System (including Farm Credit Banks, Banks for Cooperatives, Federal Agricultural Mortgage Corporation, and the Farm Credit Insurance Corporation) the Federal Home Loan Bank System, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, and Student Loan Marketing Association.

Senate amendment

The Senate had no similar provision.

Conference report

The conference report adopts the House language except that it deletes the reference to the Farm Credit Insurance Corporation which is an on-budget entity.

House bill

Subsection (b) mandates a Treasury study on the financial safety and soundness of GSEs, the adequacy of the existing regulatory structure for GSEs, and the financial exposure of the Federal Government posed by GSEs. The Department of the Treasury shall prepare and submit to Congress no later than April 30, 1991, a study of GSEs and recommended legislation.

Senate amendment

Section 12254(a)(1) of the Senate amendment contained an essentially identical provision.

Conference report

The conference report accepts the House provision but expands the scope of the Treasury study to analyze the impact of GSE activities on Treasury borrowing.

House bill

Subsection (c) mandates a Congressional Budget Office study on GSEs due to Congress no later than April 30, 1991. The study will include an analysis of the financial risks each GSE assumes, how Congress may improve its understanding of those risks, the supervision and regulation of GSEs' risk management, and the financial exposure of the Federal Government posed by GSEs. The study will also include an analysis of alternative models for oversight of GSEs of the costs and benefits of each alternative model to the Government and to the markets and beneficiaries served by GSEs.

Senate amendment

The Senate amendment contains a mandate for a similar study.

Conference report

The conference report accepts the House language with the scope expanded to include an analysis of the effects of GSE activities on Treasury borrowing.

House bill

Subsection (d) provides the Treasury and the CBO full access to GSE books and records and other information as requested by the Secretary of the Treasury or the Director of the Congressional Budget Office. This subsection also allowed the Secretary of the Treasury and the Director of the Congressional Budget Office to request information from, or the assistance of, any Federal department or agency authorized by law to supervise the activities of a GSE.

Senate amendment

The Senate amendment contains essentially the same provision.

Conference report

The conference report adopts the House language.

House bill

Subsection (e) provides for the confidentiality of the information provided to Treasury and the Congressional Budget Office. The House bill requires the Secretary of the Treasury and the Director of the Congressional Budget Office to determine and maintain the confidentiality of any book, record, or information made available by a GSE, consistent with the level of confidentiality established by the GSE involved. The Department of the Treasury and the Congressional Budget Office were made exempt from Freedom of Information Act requirements for the purpose of this Act. Finally, an officer or employee of the Department of the Treasury or the Congressional Budget Office were made subject to the penalties set forth in section 1906 of title 18, United States Code, if, by virtue of his or her employment or official position, he or she has possession of or access to any book, record, or information made available under and determined to be confidential under this section and if he or she discloses the material in any manner other than to an officer or employee of the Department of the Treasury Congression-

al Budget Office or pursuant to the exceptions set forth in such section 1906.

Senate amendment

The Senate amendment contained (at 12254(a)(C) essentially similar language to the House bill except that the Senate provided a separate standard of confidentiality for the Congressional Budget Office (at 12254(b)) that did not impose the penalties contemplated by the House bill.

Conference report

The conference report adopted the House language with respect to Treasury confidentiality and the Senate language with respect to CBO confidentiality requirements.

House bill

Subsection (f) put into statutory language the requirement that the committees of jurisdiction in the House and Senate prepare and report legislation to ensure the financial soundness of GSEs and to minimize the possibility that a GSE might require future assistance from the Government no later than September 15, 1991.

Senate amendment

Beginning at subsection (a), the Senate amendment incorporates a sense of the Congress resolution that the appropriate committees of jurisdiction will study the Administration's proposals with respect to GSEs and report legislation by September 15, 1991. Committee legislation will ensure the financial safety and soundness of the GSEs. The sense of the Congress resolution states that if the appropriate committees of jurisdiction failed to act, the Senate will consider GSE legislation on the floor. The sense of the Congress language was intended to be advisory and not binding on the Committees or the leadership if intervening events next year prevented such consideration.

Conference report

The conference adopts the House language with respect to consideration of legislation by the appropriate committees of jurisdiction. However, the conference decides to make the statutory nature of the House language apply only to the House, while the Senate will retain the language in the form of a sense of the Senate resolution. This language intends to provide impetus for Senate action. The conference report also drops the original Senate language that referred to floor action.

The conference report also adopts a provision that was not contained in either bill, requiring the President's budget to analyze and discuss the financial condition of the GSEs, and the financial exposure of the Federal Government, if any, posed by the GSEs.

Section 13501(f) of the bill requires the committees of jurisdiction in the House and Senate to report legislation to ensure the financial soundness of government sponsored enterprises by September 15, 1991. If such legislation is not reported, it is the intent of the conferees that the Leadership of the House and Senate ensure that, by the end of the first session of the 102nd Congress, there is con-

sideration of, and a vote on, legislation the Administration may submit on the financial soundness of GSEs.

The conferees intend that nothing in subtitle E be construed as changing the existing committee jurisdictions with regard to government-sponsored enterprises.

IX. ADDITIONAL CHANGES TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974

Current law

The Congressional Budget and Impoundment Control Act of 1974, as amended, provides for the adoption each year of a concurrent resolution on the budget setting forth spending, deficit, and revenue levels. The budget resolution is enforced principally through points of order against legislation violating budget resolution spending, revenue, and deficit levels, and through reconciliation instructions to congressional committees. Budget resolutions include budget levels for three fiscal years, but only the first year levels are binding (i.e., enforceable by points of order).

The budget resolution may not provide for a deficit in excess of the Gramm-Rudman-Hollings deficit target for the fiscal year. There are no other restrictions on congressional discretion in setting budget resolution levels under current law.

Title X of the Act establishes congressional procedures for considering impoundment of funds by the executive branch.

House bill

The House bill amends the Congressional Budget Act to establish procedures for enforcing the discretionary spending limits established for fiscal years 1991–1995 through action each year on the budget resolution. Through fiscal year 1995, budget resolutions are required to cover five fiscal years.

The House bill also establishes a procedure for automatic reconciliation instructions to the tax committees should legislation be enacted reducing revenues without an offset.

The House provisions are enacted as temporary amendments to the 1974 Budget Act, generally expiring at the end of fiscal year 1995.

Senate amendment

The Senate amendment also expands 1974 Budget Act enforcement procedures to ensure compliance with the discretionary spending limits and pay-as-you-go requirements to assure that the 5-year, $500 billion deficit reduction plan is implemented and maintained. In addition, the Senate amendment establishes new timetables for congressional and executive budget actions, strengthens and permanently codifies the Byrd Rule on extraneous matter, and makes other conforming changes in the 1974 Budget Act.

The Senate amendment makes permanent changes in the 1974 Budget Act.

Conference agreement

The conference agreement includes a number of budget process changes. It makes temporary changes in the Congressional Budget

Act to create 5-year budget resolutions that would be enforced by points of order against exceeding committee allocations for both the first year and the total of the 5 years covered by the budget resolution. Section 601(b) of the conference agreement also creates temporary points of order in the Senate against violating the discretionary spending limits.

The conference agreement codifies section 273 of the Balanced Budget and Emergency Deficit Control Act of 1985 as part of the Congressional Budget Act without change. Following the Senate bill, the conference agreement allows for display of the increase in the debt as a measure of the deficit, display of Federal retirement trust fund balances, and the creation in budget resolutions of pay-as-you-go provisions similar to reserve funds established in budget resolutions since 1987. The conference agreement standardizes the language of points of order, corrects a precedent in the Senate that effectively kills amendments between Houses if points of order under the Congressional Budget Act are sustained against them (*see* Senate Precedent PRL19860313-003 (Mar. 13, 1986) (LEGIS, Rules database)), and similarly makes clear that if a point of order under the Act is sustained against a bill, the bill should be sent back to committee instead of the calendar, so that the committee may then take corrective action to improve the bill. The conference agreement makes clear that amendments between the Houses on budget resolutions are covered in the Senate under section 305(c), which also deals with conference reports on budget resolutions. The conference agreement also repeals section 202 of public law 100-119, the exceptions to which the conferees believe had come to be abused (*see* W. Dauster, CONGRESSIONAL BUDGET ACT ANNOTATED 567-77 (1990)) and codifies the Byrd Rule on extraneous matter in reconciliation bills (*see id.* at 593-650; section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. No. 99-272, § 20001, 100 Stat. 82, 390-91 (Apr. 7, 1986), amended by the Omnibus Budget Reconciliation Act of 1986, Pub. L. No. 99-509, § 7006, 100 Stat. 1874, 1949-1950 (Oct. 21, 1986), and amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, Pub. L. No. 100-119, § 20.5, 101 Stat. 754, 784-85 (Sept. 29, 1987)).

The conference report also makes conforming changes to title 31 of the United States Code to make clear that funds sequestered are not available for expenditure and that ongoing, regular operations of the Government cannot be sustained in the absence of appropriations, except in limited circumstances. These changes guard against what the conferees believe might be an overly broad interpretation of an opinion of the Attorney General issued on January 16, 1981, regarding the authority for the continuance of Government functions during the temporary lapse of appropriations, and affirm that the constitutional power of the purse resides with Congress.

X. DEFINITION

Current law

Section 257 of Gramm-Rudman-Hollings defined the terms "automatic spending increase," "budget outlays," "budget authority,"

"concurrent resolution on the budget," "deficit," "maximum defict amount," "real economic growth," "sequester," "sequestration," "account," "sequesterable resource," "margin," "prepayment of a loan," "outlay rate," and "combined outlay rate."

Specifically, section 257 defines "margin" to mean $10 billion for fiscal years 1988 through 1992 and zero for fiscal year 1993. If the deficit exceeds the Gramm-Rudman-Hollings targets by less then the margin through fiscal year 1992, a sequester order is not trig-geted.

House bill

The House bill moves the definitions section to a new section 250 and retains or revises the definitions of "outlays," "budget authority," "maximum deficit amount," "real economic growth," "sequester," "sequestration," "account," and "prepayment of a loan." the House bill adds to the definitions section new definitions for "breach," 'category," "baseline," "budgetary resources," "discretionary appropriations," "direct spending," "current," "sale of an asset," "budget year," "current year," "outyear," "OMB," and "CBO," but strikes definitions for "automatic spending increase," "concurrent resolution on the budget," "deficit," sequesterable resources," "outlay rate," and "combined outlay rate." Finally, the House bill redefines "margin" to mean $15 billion for fiscal year 1994 and 1995 (minus any authorized outlay adjustments).

Senate amendment

The Senate amendment redefines "margin" to mean zero for fiscal years 1991 through 1993 and $15 billion for fiscal years 1994 and 1995. Other than in the definition of "margin," the Senate amendment makes no changes in the Gramm-Rudman-Hollings definitions.

Conference agreement

The conference agreement accepts the definition changes proposed by the House, except that no definition of "sale of an asset" is provided. Additionally "margin" is redefined to mean zero for fiscal years 1992 and 1993 and $15 billion for fiscal years 1994 1995.

XI. PRESIDENT'S BUDGET SUBMISSION

The conference agreement includes a provision permitting the President to delay submission to Congress of the Budget of the United States Government from the present requirement of "on or before the first Monday after January 3 of each year" to not later than the first Monday in February. The conferees intended that this increased flexibility be used very rarely to meet only the most pressing exigencies. An orderly and timely budget process requires that Presidential submissions be made on or before the first Monday after January 3 whenever possible. The conferees expect that Presidential submission dates will comply with the January deadline.

XII. SCOREKEEPING

The conferees recognize that, because of the constraints imposed by the Supreme Court's decision in *Bowsher v. Synar*, the conference agreement vests substantial power to estimate the costs of legislation with the Office of Management and Budget. The conferees are concerned that the Office of Management and Budget has not always shown complete objectivity in its estimates. The conferees urge the Congress to scrutinize the scorekeeping of the Office of Management and Budget as that Office implements the procedures under this conference agreement. The conferees considered procedures under which Congress would enact into law Congressional Budget Office cost estimates as part of any spending legislation. Should the Office of Management and Budget abuse its scorekeeping power, the conferees believe that the Congress should adopt such procedures at that time.

Section 251(a)(7) and 252(d) of Gramm-Rudman-Hollings as amended by this conference agreement provide that the Office of Management and Budget must make its estimates in conformance with scorekeeping guidelines determined for consultation among the Senate and House Committees on the Budget, the Congressional Budget Office, and the Office of Management and Budget. These provisions carry on and codify the existing consultative process that has led to these parties developing the following scorekeeping guidelines:

SCOREKEEPING GUIDELINES FOR FY 1991

The guideline listed below reflect general budget scorekeeping conventions that will be used by the House and Senate Budget Committees and the Office of Management and Budget in measuring compliance with Congressional budget targets and the Budget Summit Agreement.

To the extent possible under the Budget Enforcement Act of 1990, the Gramm-Rudman-Hollings statute, the Congressional Budget Office and the Office of Management and Budget will follow these guidelines in calculating deficit estimates and making projections for Gramm-Rudman-Hollings and the Budget Enforcement Act 1990.

For both budget scorekeeping and Gramm-Rudman-Hollings, final scoring will necessarily depend on the review of legislation by the scorekeepers, as provided in the Budget Enforcement Act of 1990, the Congressional Budget Act and Gramm-Rudman-Hollings. These rules will be reviewed on an annual basis.

1. Mandatory spending

The list of accounts that are considered mandatory for purposes of scoring appropriations bills follows.

2. Outlays prior

Outlays from prior-year appropriations will be classified consistent with the discretionary/mandatory classification of the account from which the outlays occur.

3. Direct spending programs

Entitlements and other mandatory programs (including offsetting receipts) will be scored at current law levels, unless Congressional action modifies the authorizing legislation. Substantive changes to or restrictions on entitlement law or other mandatory spending law in appropriations bills will be scored against the Appropriations Committee section 302(b) allocations in the House and the Senate except for those savings provisions that are to be enacted by an authorizing committee pursuant to the Budget Summit Agreement.

4. Transfer of budget authority from a mandatory account to a discretionary account

The transfer of budget authority to a discretionary account will be scored as an increase in discretionary budget authority and outlays in the gaining account. The losing account will not show an offsetting reduction if the account is an entitlement or mandatory.

5. Permissive transfer authority

Permissive transfers will be assumed to occur (in full or in part) unless sufficient evidence exists to the contrary. Outlays from such transfers will be estimated based on the best information available, primarily historical experience and, where applicable, indications of Executive or Congressional intent.

This guideline will apply to specific transfers (transfers where the gaining and losing accounts and the amounts subject to transfer can be ascertained) for FY 1991 and to both specific and general transfer authority thereafter.

6. Reappropriations

Reappropriations of expiring balances of budget authority will be scored as new budget authority in the fiscal year in which the balances become newly available.

7. Advance appropriations

Advance appropriations of budget authority will be scored as new budget authority in the fiscal year in which the funds become newly available for obligation, not when the appropriations are enacted.

Advance appropriations will be classified as mandatory or discretionary consistent with the mandatory list below.

8. Rescissions and transfers of unobligated balances

Rescissions of unobligated balances will be scored as reductions in current budget authority and outlays in the year the money is rescinded.

Transfers of unobligated balances will be scored as reductions in current budget authority and outlays in the amount from which the funds are being transferred, and as increases in budget authority and outlays in the account to which these funds are being transferred.

In certain instances, these transactions will result in a net negative budget authority amounts in the source accounts. Such

amounts of budget authority will be projected at zero. Outlay estimates for both the transferring and receiving accounts will be based on the spending patterns appropriate to the respective accounts.

9. Delay of obligations

Appropriations bills specify a date when funds will become available for obligation. It is this date that determines the year for which new budget authority is scored. In the absence of such a date, the bill is assumed to be effective upon enactment.

If a new appropriation provides that a portion of the budget authority shall not be available for obligation until a future fiscal year, that portion shall be treated as an advance appropriation of budget authority. If a law defers existing budget authority (or unobligated balances) from a year in which it was available for obligation to a year in which it was not available for obligation, that law shall be scored as a rescission in the current year and a reappropriation in the year in which obligational authority is extended. If the authority to obligate is contingent upon the enactment of a subsequent appropriation, new budget authority and outlays will be scored with the subsequent appropriation. If an appropriation is contingent on enactment of a subsequent authorization, new budget authority and outlays will be scored with the appropriation. If an appropriation is contingent on the fulfillment of some action by the Executive branch or some other event normally estimated, new budget authority will be scored with the appropriation and outlays will be estimated based on the best information about when (or if) the contingency will be met. Non-lawmaking contingencies within the control of the Congress are not scoreable events.

10. Absorption

Appropriations bills or reports should contain language that clearly specifies the extent to which funds for pay raises are either provided or absorbed within the levels appropriated in the bill, or remain to be provided.

11. Scoring purchases, lease-purchases and leases

General Rule.—When a bill provides the authority for an agency to enter into a contract for the purchase, lease-purchase, or lease of a capital asset, budget authority will be scored in the year in which the budget authority is first made available in the amount of the government's total estimated legal obligations.

Outlays for a purchase or for a lease-purchase in which the Federal government assumes substantial risk—for example, through an explicit government guarantee of third-party financing—will be spread across the period during which the contractor constructs, manufactures, or purchases the asset. Outlays for a lease, or for a lease-purchase in which the private sector retains substantial risk, will be spread across the lease period. In all cases, the total amount of outlays scored over time against a bill will equal the amount of budget authority scored against that bill.

Implementation of the Rule.—Contracts under existing authority will not be rescored. Purchases and lease-purchases will be scored on the basis of this rule starting in FY 1991. Multi-year leases will

be scored consistent with current practice, rather than this rule, in FY 1991.

Further details.—See "Addendum: Details on scoring purchases, lease-purchases, and leases".

12. Write-offs of uncashed checks, unredeemed food stamps, and similar instruments

Exceptional write-offs of uncashed checks, unredeemed food stamps, and similar instruments (i.e., write-offs of cumulative balances that have built up over several years or have been on the books for several years) shall be scored as an adjustment to the means of financing the deficit rather than as an offset. An estimate of write-offs or similar adjustments that are part of a continuing routine process shall be netted against outlays in the year in which the write-off will occur. Such write-offs shall be recorded in the account in which the outlay was originally recorded.

13. Reclassification after an agreement

Except to the extent assumed in a budget agreement, a law that has the effect of altering the classification of spending and revenues (e.g. from discretionary to mandatory, special fund to revolving fund, on-budget to off-budget, revenue to offsetting receipt), will not be scored as reclassified for the purpose of enforcing a budget agreement.

ADDENDUM: DETAILS ON SCORING PURCHASES, LEASE-PURCHASE, AND LEASES

Budget Authority.—Budget authority *scored against a bill* will include all costs of the project except for imputed interest costs calculated at Treasury rates. Imputed interest costs will not be scored against a bill or for current level but will count for other purposes.

Criteria for Defining a Lease.—Under a lease arrangement, ownership of the asset remains with the lessor during the term of the lease and is not transferred to the Government at or shortly after the end of the lease period. In addition, the Government should enter into the contract for limited use of an asset and not consume a substantial portion (75 percent) of its economic value. All risks of ownership of the asset (e.g. financial responsibility for destruction or loss of the asset) should remain with the lessor.

Illustrative Criteria Determining Private Risk.—Legislation and lease-purchase contracts will be considered against the following type of illustrative criteria to evaluate the level of private-sector risk in a project.

There should be no explicit government guarantee of third party financing.

All risks to ownership of the asset (e.g. financial responsibility for destruction or loss of the asset, etc.) should remain with the lessor unless the Government was at fault for such losses.

The asset should be a general purpose asset rather than for a special purpose of the Government and should not be built to unique specification for the Government as lessee. There should be a private-sector market for the asset.

The project should not be constructed on Government land.

Directed Scorekeeping.—Language that attempts to waive the Anti-Deficiency Act, or to limit the amount of timing of obligations recorded, does not change the government's obligations or obligation authority, and so will not affect the scoring of budget authority or outlays.

Authority to Obligate.—Unless bill language that authorizes a project clearly states that *no* obligations are allowed unless budget authority is provided specifically for that project in an Appropriations bill in advance of the obligation, the bill will be interpreted as providing obligation authority, in an amount to be estimated by the Congressional Budget Office (for the Congress) and the Office of Management and Budget (for the Executive).

APPROPRIATED ENTITLEMENTS AND MANDATORIES FOR FISCAL YEAR 1991

Commerce-Justice-State

Payment to the Foreign Service retirement and disability fund
19-0540-0-1-153
Fishermen's guaranty fund
19-5121-0-2-376
Salaries of judges:
Supreme Court, S&E [1]
10-0100-0-1-752
U.S. Court of International Trade [1]
10-0400-0-1-752
U.S. Court of Appeals [1]
10-0510-0-1-752
Courts of Appeals, District Courts, etc.[1]
10-0920-0-1-752
Payment to judicial officers' retirement fund
10-0941-0-1-752
Fees and expenses of witnesses
15-0311-0-1-752
Independent counsel
15-0327-0-1-752
Public Safety Officers benefits
15-0403-0-1-754
Civil liberties public education fund
15-0329-0-1-808

Defense

Payment to the Central Intelligence Agency retirement fund
56-3400-0-1-054

District of Columbia

No mandatory accounts.

Energy-Water

No mandatory accounts.

[1] Account split—Only salaries of judges are mandatory.

Foreign Operations

Housing and other credit guaranty programs
72-4340-0-3-151
Guarantee reserve fund
11-4121-0-3-152
Payment to the Foreign Service retirement and disability fund
11-1036-0-1-153

Interior

Miscellaneous trust funds
14-9971-0-7-302
Range improvements
14-5132-0-2-302
Administration of territories [2]
14-0412-0-1-808
Compact of free association [3]
14-0415-0-1-808

Labor-HHS-Education

Guaranteed student loans
91-0230-0-1-502
Higher education facilities loans
91-0240-0-1-502
College housing and academic facilities loans [4]
91-0242-0-1-502
Federal unemployment benefits and allowances (FUBA)
16-0326-0-1-504
16-0326-0-1-603
Social services block grant
75-1634-0-1-506
Payments to States for foster care and adoption assistance
75-1645-0-1-506
Rehabilitation services and handicapped research
91-0301-0-1-506
Vaccine improvement program trust fund
20-8175-0-7-551 [5]
Retirement pay and medical benefits for commissioned officers
75-0379-0-1-551
Medicaid
75-0512-0-1-551
Medical facilities guarantee and loan fund
75-4430-0-3-551
HMO loan and loan guarantee fund
75-4420-0-3-551
Health professions graduate student loan insurance fund
75-4305-0-3-553

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[2] Account split—The interest rate differential related to the Guam Power Authority refinancing and the Northern Marianas covenant will be scored as mandatory.
[3] Account split—The account shall be split between mandatory payments (required by treaty) and discretionary costs.
[4] Account split—Payment of interest to Treasury shall be scored as mandatory. Loan levels shall be scored as discretionary loan limitations and borrowing authority.
[5] The administrative expenses associated with this account are discretionary within the jurisdiction of the Commerce, Justice, State subcommittee.

Payments to health care trust funds
75-0580-0-1-571
Advances to the unemployment trust fund
16-0327-0-1-601
Special benefits
16-1521-0-1-601
16-1521-0-1-602
Black lung disability trust fund
20-8144-0-7-601
Federal payments to the railroad retirement accounts
60-0113-0-1-601
Special benefits for disabled coal miners
75-0409-0-1-601
Supplemental security income program [6]
75-0406-0-1-609
Family support payments to States
75-1501-0-1-609
Payments to States for family support activities
75-1509-0-1-609
Payments to social security trust funds
75-0404-0-1-651

[6] Account split—Administrative expenses shall be scored as discretionary BA and outlays.

TITLE XIV—OTHER

INVESTMENT

There is a clear need for greater investment in the areas of education, health, housing, science and low-income programs. The House Democratic leadership believes that every effort must be made to advance legislatively in budget resolutions, authorizing bills and appropriation bills funding levels which will achieve the goals set forth for the following functions:

INTERNATIONAL AFFAIRS (150)

Increases over current services provided for under this function should reach, at least, $1.8 billion in Budget Authority and $1.7 billion in Outlays by FY 1993 and, to the degree possible, be targeted for Southern African Development Assistance, Ethiopia/Sudan Famine Relief, the PL480 program and Refuge Assistance programs.

GENERAL SCIENCE, SPACE AND TECHNOLOGY (250)

Increases over current services provided for under this function should reach, at least, $500 million in Budget Authority and $400 million in Outlays by FY 1993 and, to the degree possible, be targeted for Science and Technology programs for Historically Black Colleges and Universities.

ENERGY (270)

Increases over current services provided for under this function should reach, at least, $500 million in Budget Authority and $400 million in Outlays by FY 1993 and, to the degree possible, be targeted for Hispanic and Historically Black Colleges and Universities consortia agreements with the Department of Energy.

COMMERCE AND HOUSING CREDIT (370)

Increases over current services provided for under this function should reach, at least, $2 billion in Budget Authority and $2 billion in Outlays by FY 1993 and, to the degree possible, be targeted for the programs of the Gonzalez, Dellums and Conyers housing bills (H.R. 5157, 1122 and 969)

COMMUNITY AND REGIONAL DEVELOPMENT (450)

Increases over current services provided for under this function should reach, at least, $2.6 billion in Budget Authority and $300 million in Outlays by FY 1993 and, to the degree possible, be targeted for the programs of the Urban Homesteading Act (H.R. 1181)

EDUCATION AND TRAINING (500)

Increases over current services provided for under this function should reach, at least, $2.4 billion in Budget Authority and $2.0 billion in Outlays by FY 1993 and, to the degree possible, be targeted to fund the Carl D. Perkins Vocational Education Act, the School Lunch and Nutrition Act, Head Start and Handicapped Education,

to create Educational R&D Districts for educational research and development, Youth Incentive, Employment, Drop-Out Prevention and Anti-Gang Violence programs, and to create a new government guaranteed bond program to raise capital improvement fund for private Historically Black Colleges and Universities

INCOME SECURITY (600)

Increases over current services provided for under this function should reach, at least, $1.5 billion in Budget Authority and $1.5 billion in Outlays by FY 1993 and, to the degree possible, be targeted to fund WIC, School Breakfast and Child Care Food programs, AFDC Assistance and Community Food Nutrition, AFDC Work Activities, Job Opportunities and Basic Skills (JOBS) Training and Snack to Child Care and Temporary Emergency Food Assistance programs

VETERANS BENEFITS AND SERVICES (700)

Increases over current services provided for under this function should reach, at least, $500 million in Budget Authority and $500 million in Outlays by FY 1993 and, to the degree possible, be targeted for expanding Education, Training, and Rehabilitation and for increases in Veterans Housing, Hospital and Medical benefits.

We look forward to working with the Congressional Black Caucus on this important matter.

From the Committee on the Budget, for consideration of the House bill, and the Senate amendment, and modifications committed to conference, and as exclusive conferees with respect to any proposal to report in total disagreement:

LEON E. PANETTA,
RICHARD GEPHARDT,
BILL FRENZEL,

As additional conferees from the Committee on the Budget, for consideration of title XIV of the House bill, and all other provisions of the House bill and the Senate amendment on which conferees from more than one of the other standing committees of the House are appointed, and modifications committed to conference:

ED JENKINS,

From the Committee on Agriculture, for consideration of title I and subtitle B of title V of the House bill, and title I and subtitle A of title IV of the Senate amendment, and modifications committed to conference:

E DE LA GARZA,
JERRY HUCKABY,
TOM COLEMAN,

From the Committee on Banking, Finance and Urban Affairs, for consideration of title II of the House bill, and title II of the Senate amendment, and modifications committed to conference:

HENRY GONZALEZ,
MARY ROSE OAKAR,
CHALMERS P. WYLIE,

From the Committee on Education and Labor, for consideration of title III and sections 12403 and 13323 of the House bill, and subtitle F of title VI, part 4 of subtitle D of title VII, title X, and section 6401 of the Senate amendment, and modifications committed to conference:

GUS HAWKINS,
WILLIAM D. FORD,

From the Committee on Energy and Commerce [health] for consideration of subtitles A and B of title IV and subtitles B, C, and D of title XII of the House bill, and part 2 of subtitle B and subtitle C of title VI of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
HENRY A. WAXMAN,
NORMAN F. LENT,

From the Committee on Energy and Commerce (transportation), for consideration of sections 4511, 4521, and 4522 of the House bill, and sections 3002 and 3003 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
THOMAS A. LUKEN,
NORMAN F. LENT,

From the Committee on Energy and Commerce (energy), for consideration of sections 4501, 4502, 5101, and 10002 of the House bill, and subtitle B of title IV and section 502 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
PHILIP R. SHARP,
NORMAN F. LENT,

From the Committee on Government Operations, for consideration of part 1 of subtitle A and subtitles B through E (except section 14302) of title XIV of the House bill, and corresponding provisions of the Senate amendment, and modifications committed to conference:

JOHN CONYERS, Jr.,
HENRY A. WAXMAN,
BARNEY FRANK,
HOWARD C. NIELSON,

From the Committee on Interior and Insular Affairs, for consideration of title V and sections 4502 and 10002 of the House bill, and subtitles A and B of title IV and section 502 of the Senate amendment, and modifications committed to conference:

MORRIS K. UDALL,
GEORGE MILLER,

From the Committee on the Judiciary, for consideration of title VI of the House bill, and title IX of the Senate amendment, and modifications committed to conference:

JACK BROOKS,
BOB KASTENMEIER,
CARLOS J. MOORHEAD,

From the Committee on Merchant Marine and Fisheries (tonnage duties, coast guard fees, and cargo preference), for consideration of sections 7101 and 7102 of the House bill, and section 3001 of the Senate amendment, and modifications committed to conference:

WALTER B. JONES,
BILLY TAUZIN,

From the Committee on Merchant Marine and Fisheries (EPA fees), for consideration of section 7103 of the House bill, and modifications committed to conference:

WALTER B. JONES,
GERRY E. STUDDS,
ROBERT W. DAVIS,

From the Committee on Merchant Marine and Fisheries (coastal zone management), for consideration of subtitle B of title VII of the House bill, and modifications committed to conference:

WALTER B. JONES,
DENNIS M. HERTEL,
ROBERT W. DAVIS,

From the Committee on Post Office and Civil Service, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference:

BENJAMIN A. GILMAN,

From the Committee on Public Works and Transportation (aviation) for consideration of subtitles B and C of title IX of the House bill, and subtitle B of title III of the Senate amendment, and modifications committed to conference:

GLENN M. ANDERSON,
JAMES L. OBERSTAR,
JOHN PAUL HAMMERSCHMIDT,

From the Committee on Public Works and Transportation (transportation trust funds), for consideration of subtitle A of title IX of the House bill, and modifications committed to conference:

GLENN M. ANDERSON,
NORMAN Y. MINETA,
JOHN PAUL HAMMERSCHMIDT,

From the Committee on Public Works and Transportation (EPA fees), for the consideration of subtitle D of title IX of the House bill, and modifications committed to conference:

GLENN M. ANDERSON,
HENRY J. NOWAK,
JOHN PAUL HAMMERSCHMIDT,

From the Committee on Rules, for consideration of part 2 of subtitle A of title XIV and section 14302 of the House bill, and corresponding provisions of the Senate amendment, and modifications committed to conference:

JOHN MOAKLEY,
BUTLER DERRICK,
ANTHONY C. BEILENSON,
MARTIN FROST,
JAMES H. QUILLEN,
CHARLES PASHAYAN, Jr.,

From the Committee on Science, Space, and Technology, for consideration of title X of the House bill, and subtitle B of title IV and sections 3004 and 3024 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
MARILYN LLOYD,

From the Committee on Veterans' Affairs, for consideration of title XI (except section 11051) of the House bill, and title XI of the Senate amendment, and modifications committed to conference:

G.V. MONTGOMERY,
DOUGLAS APPLEGATE,
BOB STUMP,

From the Committee on Ways and Means (revenues and debt ceiling), for consideration of title XIII, subtitles E and F of title XII, and sections 3102, 3121, 7101, and 11051(a) of the House bill, and title VII (except subtitle C), and subtitles D and E of title VI of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,

From the Committee on Ways and Means (Medicare), for consideration of subtitles A through D of title XII and subtitle A of title IV of the House bill, and subtitle B of title VI of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,

From the Committee on Ways and Means (Social Security), for consideration of part 5 of subtitle A of title VI of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
ANDREW JACOBS, Jr.,

From the Committee on Ways and Means (child care and human resources), for consideration of parts 1 through 4 of subtitle A and subtitle F of title VI and subtitle C of title VII of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
THOMAS J. DOWNEY,

As an additional conferee for consideration of subtitle B of title V of the House bill, and subtitle A of title IV of the Senate amendment, and modifications committed to conference:

R.J. MRAZEK,

As an additional conferee for consideration of part 1 of subtitle A and subtitles B through E (except section 14302) of title XIV of the House bill, and corresponding provisions of the Senate amendment, and modifications committed to conference:

SILVIO O. CONTE,

As an additional conferee for consideration of part 2 of subtitle A of title XIV and section 14302 of the House bill,

and corresponding provisions of the Senate amendment, and modifications committed to conference:

CARL D. PURSELL,
Managers on the Part of the House.

From the Committee on Agriculture, Nutrition, and Forestry:

PATRICK J. LEAHY,
DAVID PRYOR,
RICHARD G. LUGAR,
BOB DOLE,
THAD COCHRAN,

From the Committee on Banking, Housing, and Urban Affairs:

DON RIEGLE,
ALAN CRANSTON,
CHRISTOPHER J. DODD,

From the Committee on the Budget:

JIM SASSER,
PETE V. DOMENICI,

From the Committee on Commerce, Science, and Transportation:

DANIEL K. INOUYE,
WENDELL FORD,
JOHN BREAUX,
JOHN D. ROCKEFELLER IV,
JOHN C. DANFORTH,
BOB PACKWOOD,
TED STEVENS,

From the Committee on Energy and Natural Resources:

J. BENNETT JOHNSTON,
DALE BUMPERS,
WENDELL FORD,
JAMES A. MCCLURE,
PETE V. DOMENICI,

From the Committee on Environment and Public Works:

QUENTIN N. BURDICK,
DANIEL PATRICK MOYNIHAN,
GEORGE MITCHELL,
MAX BAUCUS,
BOB GRAHAM,
JOHN H. CHAFEE,

From the Committee on Finance:

LLOYD BENTSEN,
DANIEL PATRICK MOYNIHAN,
D.L. BOREN,
GEORGE MITCHELL,
DAVID PRYOR,
JOHN D. ROCKEFELLER IV,
BOB PACKWOOD,
BOB DOLE,
JOHN C. DANFORTH,
JOHN H. CHAFEE,

From the Committee on Governmental Affairs:

JOHN GLENN,
JIM SASSER,
DAVID PRYOR,

From the Committee on the Judiciary:

DENNIS DECONCINI,
PATRICK LEAHY,
ORRIN HATCH,

From the Committee on Labor and Human Resources for the Child Care and Development Block Grant Act:

EDWARD M. KENNEDY,
CHRISTOPHER J. DODD,
ORRIN G. HATCH,

From the Committee on Labor and Human Resources:

EDWARD M. KENNEDY,
CLAIBORNE PELL,
HOWARD M. METZENBAUM,
CHRISTOPHER J. DODD,

From the Committee on Labor and Human Resources for pension provisions (reversions and retiree health transfers):

EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,

From the Committee on Veterans' Affairs:

ALAN CRANSTON,
DENNIS DECONCINI,
JOHN D. ROCKEFELLER IV,
Managers on the Part of the Senate.

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CONFERENCE REPORT ON H.R. 5835, OMNIBUS BUDGET RECONCILIATION ACT OF 1990

Mr. PANETTA. Mr. Speaker, pursuant to the rule, I call up the conference report on the bill (H.R. 5835) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1991, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER. Pursuant to House Resolution 537, the conference report is considered as read.

(For conference report and statement, see proceedings of the House of this date, Friday, October 26, 1990.)

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, if the conference report is being considered as read, is there a copy available for the Members to actually look at? I realize there is a copy at the desk, but on this side we have no copy of the conference report, and I see no copy on the majority side. What is it that the Members are to utilize in order to find specific provisions?

The SPEAKER. The copy available at the desk will be available for the Members to examine.

Mr. WALKER. All of the Members are to use the one copy available at the desk? Is that correct?

The SPEAKER. The Chair does not note that there are any Members seeking to examine the report at the moment.

Mr. WALKER. As a further parliamentary inquiry, Mr. Speaker, I see a couple of Members at the desk right now looking through it, and that is the question as to whether or not that is going to be the only copy available.

Mr. PANETTA. Mr. Speaker, if the gentleman will allow me to answer, there are additional copies that are being copied now and brought to the floor. In the meantime, there are obviously summaries available on the desk for Members to look at.

Mr. WALKER. Mr. Speaker, I thank the gentleman, and I thank the Chair.

The SPEAKER. The gentleman from California [Mr. PANETTA] will be recognized for 1 hour, and the gentleman from Minnesota [Mr. FRENZEL] will be recognized for 1 hour.

The Chair recognizes the gentleman from California [Mr. PANETTA].

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

(Mr. PANETTA asked and was given permission to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, I rise in support of the conference.

First of all, I wish to thank all of the Members for their patience and for their cooperation, recognizing that they are all tired, we are all tired, and very exhausted by what has been a very long process throughout this entire year, long and often frustrating in the effort to try to develop a final budget compromise, working with the administration.

The process has been focused on one goal and one goal only which is to try to confront what is perhaps the most serious problem facing this Nation, the tremendous deficits that we now confront in our economy.

What I would hope to do is to ask all Members for this moment, as we consider this conference report, to hopefully set aside the politics and the rhetoric and the political strategies, the 1-minute shots and perhaps focus on the issue of where we are as a Congress and as a nation. If we will do that, I believe there are three fundamental reasons why this conference report should be adopted.

The first is that it is absolutely essential to deficit reduction and represents the largest and most effective deficit reduction package in the history of this country.

The package that comes before us, using the OMB baseline, is $496 billion over 5 years.

□ 0420

Let me remind Members that the reconciliation target last year was about $14 billion. We achieved in real savings out of that $14 billion somewhere around $4 to $5 billion, because it was largely smoke and mirrors. I think the largest deficit reduction package we have passed in our history was something in the vicinity of about $35 billion back in 1981. Even those savings were questionable because of cost shifts, asset sales, and some of the gimmicks that were used in deficit reduction.

The package before Members consists of $496 billion in deficit reduction that is real, that does not involve any smoke and mirrors, and that constitutes tough and hard choices to try to achieve deficit reduction. Twelve committees of the House, and I would recommend Members to read the summary on the reports that we have provided, 12 committees of the House, and I pay tribute to each chairman and to all those committees for the tough choices that had to be made. I would recommend to Members that they walk through every one of these committees and look at the choices that were made, whether it was the Committee on Agriculture, the Committee on Banking, Finance and Urban Affairs, the Committee on Education and Labor, the Committee on Energy and Commerce, the Committee on Interior and Insular Affairs, the Committee on Merchant Marine and Fisheries, the Committee on Post Office and Civil Service, the Committee on Veterans' Affairs, the Committee on Science, Space, and Technology, or the Committee on Ways and Means. Every one of them, every one had to make very tough choices that involved real savings, choices that impact on the American people and that impact on all Members. The only way we achieve real deficit reduction is by the willingness to make those kinds of tough choices. The combined savings that we have here represents in spending almost two-thirds of this package. We hear a lot of debate on the tax side. We hear a lot of debate about revenues. I would remind Members that two-thirds of this package over 5 years is spending savings. Close to $100 billion in mandatory savings that are part of the bill before the House, and in discretionary savings we are achieving close to $200 billion, largely out of the defense area, representing almost $300 billion in spending savings.

For those that rise and say we ought to do spending savings, let me assure the Members, two-thirds of this package comes out of spending. Less than one-third comes out of revenues.

But that represents, it seems to me, the kind of balance that we have to achieve if we are serious about deficit reduction.

Of that one-third raise in revenues, there are some that are saying it is the largest tax package in the history of this country. Wrong. It represents about 2.2 percent over 5 years. TEFRA, I will remind Members, was almost 3 percent in terms of the tax increase involved there. So this package is based on a balanced approach of spending, savings and revenues.

Is there sacrifice involved? You bet there is. We cannot solve a deficit reduction package that does not involve sacrifice on the part of everyone. Is everyone involved here in terms of sacri-

fice? Absolutely, because the fact is that every American, every American has to share in the obligation to confront what is a national problem, the problem of the deficit.

Is this sacrifice balanced and fair? Indeed it is. Fifty percent of the revenue burden falls on the wealthiest income earners in this country, and that is the way it should be.

The first package that came to the floor of the House, 26 percent of the burden fell on high income tax earners. So what we have before Members is a package that is, indeed, balanced and fair in how the sacrifice is distributed.

Is it enforceable? Indeed it is. We implement budget process changes here that guarantee that the targets established over the 3 years, and ultimately over the 5-year period, will be achieved. We implement pay as you go. For Members that have said we ought not to initiate any spending in the future unless we are willing to pay for it, that is exactly what this bill does. If a Member has a new initiative, if a Member has a new program, tell Members how they will pay for it. Unless they pay for it, that program is not going to happen. We have been trying to do that for years. In this package we finally take that step.

Second, it is essential that we adopt this for the health of our economy. I do not have to remind Members of the size of the deficit. It is growing day to day. We have an overall $2.3 trillion national debt that is eating away at our resources for the future. It is eating away at our economic life for the future. We are facing obviously the real possibility of a recession. Our economy is in desperate straits, and the question we have to ask tonight is, what happens if we fail? That is the question Members have to ask. What happens to this economy if we fail to adopt a serious deficit reduction package for this country? The answer to that is that if we fail, it is almost comparable to an act of irresponsibility by Members because we know that if we fail, we doom our economy to a deep recession, without question. Without question. In addition to that, we know that if we do this, we threaten the people in our society with a sequester that could approach almost $100 billion. The consequences of that would be to undermine confidence in the United States of America at a time of crisis, crisis in the Middle East, and crisis in the world.

We are looking at a world that has increasing competitiveness by countries abroad. If we are going to compete in that kind of world, where do we stand, if we do not have the discipline to control our own economy?

The choice is very clear. It is a choice between whether or not we accept fiscal discipline in this country and try to get this country to become strong again in terms of our economy, or chaos. Both political and economic chaos.

A final reason that this package should be adopted is that we are not just talking about the deficit, we are not just talking about the economy. We are talking about the health of our system of government. The strength of our democracy, the strength of what we are about as a nation is our capacity to govern in freedom. Yes, we have freedoms, and we have rights to criticize, to attack, to speak out. That is right, that is what our country is all about, but that freedom is worth nothing if we do not have the capacity to govern, if we do not have the capacity to ask for sacrifice from our people, all people. My parents came to this country as immigrants. They came here because they sought an American dream. But they also knew that in seeking that American dream they would have to sacrifice. They would have to work. They would have to put money aside, because their whole dream was to give their children a better life. That is what the American dream is all about. Give our children a better life. For too long, we have avoided that challenge, sacrifice that is demanding, for whatever reason. We thought somehow that we could have it all, that we could cut taxes, we could raise defense spending, we could increase benefits, and nobody would have to pay, that the bill would never become due. The bill has become due. We have to pay it. Tonight is the night we take that step.

To the credit of the President of the United States, he was willing to take that step and provide that leadership. It was not easy. He took his hits, but he was willing to exercise leadership because he said the most important problem in this country is the problem of confronting the deficit. He was right.

The leadership of this Congress, the bipartisan leadership of this Congress including the Speaker, the majority leader, DICK GEPHARDT, and the gentleman from Illinois, BOB MICHEL, Senator BOB DOLE, Senator MITCHELL, all of them exercised leadership, including taking some hits from Members who said, "Do not do it," but they were willing to do it, to work with the President to try to confront this problem.

The test tonight is whether all Members are willing to govern and confront that problem as well. Let history tonight be our judge, and let it say that when we faced this crisis, we were willing to sacrifice, we were willing to make that test for our economy, for our future, but most importantly, to give our children a better life.

□ 0430

Mr. FRENZEL. Mr. Speaker, I yield myself 3 minutes.

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, what seems like an eternity ago but was only a couple of weeks, this House voted down a budget resolution based on the sumit agreement.

Now, when that happened we got a worse result. I think we should have learned from the experience that if this bill does not pass tonight, we will get a worse result. That should be especially apparent to Republicans, who may mourn the loss of entitlements savings and the increase in taxes that occurred by reason of the first budget resolution failure.

Instead of looking at all the things you do not like in this bill, I hope you will consider a few that are worthwhile.

In the first place, you do get $100 billion of entitlement savings.

In the second place, you do get a limit on domestic discretionary spending, not as tight a limit as many of us would like, but a limit, and you get fairly solid enforcement, the best enforcement the Congress has ever seen of these agreed limits.

Can it be breached? Yes, I suppose it can. Congress can always say, "notwithstanding any other provision of law" we are going to do something; but in this bill we have made it very difficult to avoid the pay-as-you-go, or to avoid the strictures of the agreed limits.

In this bill you are also getting some taxes. Most of us do not like taxes.

On the other hand, you get them along with the deficit reduction, and in the future you may get them simply for more spending. You may not like that nearly as well.

What happens if this bill fails? I think as many of you are aware, you are not going to get a CR at fiscal year 1990 rates. That is too good to be true.

What you will get is Armageddon.

You are going to get confusion for a couple of days. You are going to get people laid off, and eventually you are going to get a CR that is a good deal larger than most of us at least on this side of the aisle are willing to tolerate.

Mr. Speaker, we have come to what I hope is the end of a very long journey. We have run out of side alleys and avenues down which we can travel to avoid making the final decision. We have to act now.

I disagree with my chairman. For me, this is not a bill full of tough decisions, but apparently it may be for many of you. I hope those of you who do have a difficult time with this will finally make a positive decision in favor of this bill.

I do not think I need to repeat that the President of the United States and the joint bipartisan leadership of both Houses of this Congress support this bill very strongly. I hope it is swiftly adopted.

Mr. PANETTA. Mr. Speaker, I yield 7 minutes to the distinguished gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Committee on Ways and Means.

(Mr. ROSTENKOWSKI asked and was given permission to revise and extend his remarks.)

Mr. ROSTENKOWSKI. Mr. Speaker, it is time to end the budget debate, declare victory and move on.

What began as the Rostenkowski challenge so many months ago is before us today in its final form. Last March I challenged my colleagues, our President, and the American people to embrace a serious deficit reduction plan. That challenge has now been met.

This is a deficit reduction plan that deserves broad support; let me explain why.

First, it honestly reduces our exploding budget deficits. There's nothing phony in either the spending cuts or revenue increases it includes. What you see is what you get.

The deficit is an issue that we have ducked for more than a decade. Collectively, we have allowed a chronic problem to become a major threat to our international reputation and the economic health of our Nation.

We have tried to run and hide for too long. We have created an illusion of prosperity and attempted to hide a mountain of debt. That debt has tripled and we're now the largest debtor nation in the world.

Now is the time to act. One can quibble about the details, but the facts are certainly clear—this year's deficit will be reduced by $40 billion. Over the next 5 years, the deficit will be reduced by nearly $500 billion.

What's at stake here? Nothing less, in my opinion, than American self-respect. Why is it so important that the deficit be brought under control? Because we share the belief of our constituents who want America to regain its role as the world's economic superpower. Because we don't want our trading partners to view us as international debt addicts, and because we owe it to our children, who shouldn't be asked to pay our bills. By passing this conference report, we will reduce the debt burden on each of our kids by $2,000. My colleagues, deficits do matter.

This conference report is a responsible and balanced plan of shared sacrifice. It acknowledges the need for both higher revenues and reduced spending. Let's take a closer look at what the conferees have done.

The tax component requires everyone but our poorest citizens to make a modestly larger contribution to the support of our government. It asks those who have the most—particularly those who have gained the most in the past 10 years—to bear the largest burden. That's only fair. I deeply believe in the principles of tax fairness and am pleased that the spirit of the Ways and Means tax plan has been preserved in this conference report.

In recent weeks some critics have characterized this commitment to progressivity as class warfare. They totally misunderstand and misrepresent the issue. All we're talking about here is simple fairness. And I think tax fairness is an ideal that all Americans understand and endorse, irrespective of income level or party affiliation.

During this long debate, we have proven that democracy is more important than efficiency. Despite the current discomfort in this House, despite our desire to adjourn, it is important to remind ourselves that fatigue and frustration are the prices we are willing to pay for the democracy we love.

We need not apologize for our commitment to democratic procedures. Personally, I'm proud of it.

We crafted this plan by following regular order and rejecting the shortcut of the summit. Clearly, I think we did the right thing by opening up the process to include full participation by the elected representatives of the people, but that also means that compromise was inevitable. Compromise means always having to say you're sorry to someone. There is an ample supply of compromise—of victory and disappointment—in this package.

I am on record endorsing a higher top tax rate. The principle of simplicity is severely compromised by the deduction limits and exemption phaseouts concocted to maintain the fiction of the 31 percent top rate.

The administration's stubborn insistence on the perception of a low rate has led to the creation of another bubble that will cause future confusion. Make no mistake, under this conference agreement, the real top rate is substantially higher than 31 percent.

Let me warn my colleagues that complaints about the complexity of these provisions will be heard next April. And let me assure you, my colleagues, that these complaints will be totally justified. Our quest for simplicity and clarity will have to be postponed to another day. But that other day will certainly come.

I am also disappointed that we were forced to drop the surtax on millionaires. It was popular, but it was also right. Let me stress my continuing commitment to the millionaires' surtax as a test of fairness, and let me be clear: we have not abandoned the issue of fairness. We will be back to fight another day. As General MacArthur said: "I shall return." Ultimately, perhaps sooner than you think, we will prevail.

The conference report also includes difficult spending cuts. The physicians and hospitals who serve millions of Medicare beneficiaries will receive less reimbursement than they anticipated. However, I believe we have made these cuts carefully enough so as not to compromise the quality or limit access to our healthcare system.

We designed these cuts to minimize the impact on Medicare beneficiaries. I am pleased that the House provisions for premiums and deductibles, which originated with the Ways and Means democratic alternative, prevailed in conference. That's a clear victory for our senior citizens. Medicare has served them well in the past. It will continue to do so in the future. The important addition of mammography benefits will make the Medicare program even more valuable to millions of older women.

At the same time we protected our senior citizens, we have invested in our youth. Our commitment to an expanded title IV childcare program and an expanded earned income tax credit is proof that we truly care about kids. We have ignored their needs for too long. It is an investment that will pay enormous dividends for the country in the years ahead.

Mr. Speaker, today we are at the end of a difficult process. In a few minutes, we will decide whether the economic gain is worth some political pain.

Today the music stops. It is time to choose. It is time for all of us to act responsibly. It is time to send a strong message to everyone—our constituents, our trading partners and our critics—that we, the elected representatives of the American people have the courage to confront this national problem and resolve it.

There are many people who deserve a lot of credit for the conference product we are considering tonight—TOM FOLEY, DICK GEPHARDT, BOB MICHEL, LEON PANETTA, and BILL FRENZEL are just a few. There are others in the other Chamber and even downtown who played essential roles that were both patient and positive. Everyone who votes for this conference report will share in the credit awarded to those who are willing to forswear petty politics for responsible governance.

A yes vote is a vote for responsible government and shared sacrifice. You will do yourself, this House and your country proud by voting aye on this conference report and enacting a plan of serious, and shared, deficit reduction.

Each of you who votes yes will be able to say that you have stared down the deficit. You will be able to look your constituents and the American people in the eye and say that you have governed fairly and responsibly in the Nation's best interest.

For each of you, my colleagues, that will be both good politics and good policy. Most of all, it will be good for your country.

There are a few additional points unrelated to this bill which I would like to make at this time.

Mr. Speaker, first I would like to comment on an issue that was first brought to my attention late last year relating to the deductibility of certain reserves or other liabilities on a property and casualty company's annual statement for future claim payments under minimum premium group accident and health insurance riders. Under such riders, the employer is responsible to the insurer for funding claims up to a certain trigger-point

amount on a cumulative monthly basis. These minimum premium riders do not change the risk assumed by the insurance company, and the insurer remains liable for all unpaid claims as of the date of termination of the rider. The insurance company reflects on its annual statement a liability for the future unpaid claims upon termination of the minimum premium rider in an amount essentially equal to the termination premiums.

The Internal Revenue Service has taken the position, in a technical advice memorandum, that an insurer in these circumstances is not entitled to a current deduction for additions to its reserve. The IRS denied a current unpaid loss deduction on the ground that the insurer's liability does not arise until some future date, and at the same time denied a current unearned premium deduction on the ground that risks insured against have occurred during the policy year.

On May 23 of this year, Congressmen RANGEL, STARK, FRENZEL, GRADISON, and MCGRATH introduced H.R. 4902 to clarify that a current unpaid loss deduction is permitted to an insurance company in these circumstances. Last week this matter was considered by the full Ways and Means Committee, and the committee unanimously adopted the proposal for both life and property and casualty companies as an amendment to the small business bill.

Because of the procedural situation in which we find ourselves, we will not be able to include this amendment in the present legislation. Nevertheless, if this matter is not satisfactorily resolved, it continues to be my firm intention to have the Committee on Ways and Means provide a legislative clarification as soon as possible.

Second, Mr. Speaker, Mr. GRADISON offered an amendment during the Ways and Means Committee markup of H.R. 5826, the Small Business Tax Incentive Act of 1990, that dealt with the application of the passive foreign investment company rules to U.S. mutual funds. The IRS has not prescribed by regulations any particular rules regarding the application of the passive foreign investment company rules to U.S. mutual funds; the purpose of Mr. GRADISON'S amendment was to ensure that the IRS would prescribe such rules to provide a workable method for U.S. mutual funds to recognize their annual gains in a PFIC. Action on H.R. 5826 was not completed by the committee.

I wish to assure Mr. GRADISON that the inaction by our committee on H.R. 5826 does not alter any authority that the IRS possess under present law to prescribe regulations in connection with this issue.

Mr. Speaker, third, it has also come to my attention that the Internal Revenue Service has issued proposed regulations pursuant to section 461(h) of the Internal Revenue Code, which would reverse a revenue procedure allowing real estate developers to include in the basis of property, for purposes of determining taxable gain, costs which they are contractually liable to incur in the future. The proposed regulations would be effective for tax years beginning after December 31, 1989. The Congress intends to review the Service's proposed action to determine whether it is consistent with legislative intent. To permit such review, the Congress encourages the Service to make any such regulations prospective.

□ 0440

Mr. FRENZEL. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Ohio [Mr. GRADISON], a member of the Committee on the Budget.

(Mr. GRADISON asked and was given permission to revise and extend his remarks.)

Mr. GRADISON. Mr. Speaker, colleagues for whom I have the greatest respect, have spoken about the good features of the budget reconciliation bill before us and have urged us to vote for it.

I should be a good candidate for an "aye" vote. I voted for the budget resolution which came out of the summit. I also voted for the version that followed its defeat. I did so to keep the process moving. At the time I said I'd read the "fine print" before voting on a final reconciliation bill. Well, I've read the fine print, and I do not like what I've read.

I have been willing to consider a tax increase as a last resort. Unlike many—perhaps most of my Republican colleagues—I recognize that increasing taxes may be needed as part of a deficit-reduction strategy. But to increase taxes without restraining spending makes no sense and is unfair to those whose taxes would increase. My constituents may be willing to pay more taxes to reduce the deficit, but not to finance huge spending increases.

I still might have supported the package if I thought the enforcement provisions were adequate and that the budget would actually be brought into balance in 1995. This is highly unlikely—not because the economic assumptions are so optimistic, but because we are held harmless when they are proven to be optimistic. Under this bill, we will not be required to make up for increases in the deficit that arise because economic reality fails to match our heroic assumptions.

But, some argue that this package will soon lead to a significant easing of interest rates. How can that happen given Treasury's huge borrowing requirements—$250 billion this year alone—and our continued heavy reliance on foreign lenders, even if this package is enacted? Credit markets are not made up of foolish people, here or abroad. They will see this as a feeble effort, and they will behave accordingly. In my view, so will the Federal Reserve, and for the same reasons. If interest rates decline it will be because of the weakness of the economy—not because of this package.

On the tax side and on the Medicare side—two areas in which I have special involvement because of my committee assignment—this budget-driven process has produced both bad tax law and bad health law.

For example, the huge hit on life insurance companies, described as related to "amortization of deferred acquisition costs," is nothing of the sort. Rather, it is a gross premium tax—actually a series of differing gross premium taxes which bear no relation either to profits or to the deferred costs actually experienced by the companies. What an incredible time—when life insurance companies are reeling from real estate losses, to hit them with a multibillion dollar tax increase unrelated to their income.

As for health policy, the continued Medicare reimbursement squeeze on health care providers—especially hospitals—means that the financial condition of many hospitals will be further weakened and that Medicare will continue to shift costs to non-Medicare patients, thus making it harder for the private sector to afford health insurance. Is this fairness?

And how about the billions of dollars of special deals for favored industries, financed in effect by increasing taxes on the middle class. Is this sound deficit reduction? Is this fairness?

And the bubble—yes, let's talk about the bubble. My Democrat friends, who helped create the bubble in 1986, have been denouncing it all over this country for months as favoring the rich. And what is their answer? Creating a new bubble. And what a bubble it is. The larger the family, the higher their tax rate.

How's that for a profamily Tax Code? A family in the new bubble faces a higher tax rate for each child they have.

Let me bring this blatantly antifamily provision down to earth; a family with two children would face a marginal tax rate of 33 percent; if a family happens to have four children, they would face a 34-percent rate; and, a family with six children would have their tax rate increased a full 3 percent, to 35 percent.

This is truly a bizarre way to raise revenues—on the backs of families with children. What absurd tax policy. Is this fairness?

Mark my words, we'll be back here in a few years with the Democrats who created this new bubble denouncing it, calling for its elimination, and blaming it on Republicans.

If my colleagues are not especially concerned about the hit on families from the tax provisions of this bill, perhaps the preferential treatment they lavish on themselves will focus their minds.

How do Members of Congress fare under this plan? Very well indeed.

thank you very much. Members' income conveniently falls in the bracket which will have its tax rate cut, not increased. What a remarkable coincidence! Is this fairness?

No, Mr. Speaker, while I have voted to keep the process moving, I cannot vote for this package. Better to reject it, pass a continuing resolution at 1990 levels—which would do far more than the bill before us to restrain spending and reassure the credit markets—and close down this business-as-usual Congress.

Mr. PANETTA. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, the gentleman reflected on the 31 percent, but he did not reflect on the other elements of the tax package which increase the overall tax burden for Members of Congress just like everyone else above that income level.

Mr. GRADISON. Mr. Speaker, will the gentleman yield for one sentence?

Mr. PANETTA. I yield to the gentleman from Ohio.

Mr. GRADISON. I thank the gentleman for yielding.

Mr. Speaker, the cut of two points, which is the result of the bursting of the bubble, which brings Members down from 33 to 31 percent, is larger than the increase which is caused by increasing the hospital insurance tax base to $125,000. So there is a net decrease if you take both factors into account.

Mr. PANETTA. I thank the gentleman again. Our studies make very clear that when you combine the HI plus the exemption that the gentleman just complained about, plus the other provisions in here, the overall tax burden, whether it is Members of Congress or anyone else above that income level, goes up, and that is the way it should be.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield just briefly?

Mr. PANETTA. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman for yielding.

Mr. Speaker, I would point out if you operate at 1990 levels as was just suggested, that means $55 million less for S&L prosecutions, it means about $80 million, no more than $80 million less for drug enforcement.

Mr. PANETTA. Mr. Speaker, I yield 3 minutes to the chairman of the Committee on Public Works and Transportation, the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the reconciliation bill believing it will make a significant contribution to the economic well-being of our Nation. I want to make particular note of the aviation provisions because these sections, too, will make a significant contribution to our economic well-being.

Among the aviation provisions in this bill is the establishment of a new airport development financing mechanism, a locally imposed passenger facility charge. For a very nominal charge by local airports on airline passengers, we can expect as much as $1 billion per year to be created for development of airport infrastructure. We can expect that severe delays and congestion will be alleviated through this new charge. There are other important aviation provisions which I will not take the time to reference at this point.

However, there is one other provision of the bill which I believe should have further elaboration. Section 9304 (a)(2)(C)(v)(II) is not intended to prohibit such an airport operator as is described, from restricting changes in the levels of noise generated by such aircraft operations as are in effect as of the date of enactment of this act. This is a point which I hope will be followed carefully by those charged with administering this act.

Although I support this reconciliation bill, I regret the fact that for the first time we are asking American taxpayers to reduce the deficit through the gas tax. Along with the other members of the Committee on Public Works and Transportation, I have long opposed the use of the gas tax for deficit reduction. Since 1956, the gas tax has been dedicated to transportation and I believe it should continue to be used for that purpose. Using the gas tax for deficit reduction is regressive, it will make a recession more likely and divert money from necessary infrastructure investment.

I had hoped that in exchange for using the gas tax for deficit reduction, we would be able to spend part of the new gas tax funds for transportation. Unfortunately, that was not allowed in this bill. Instead, the reconciliation bill contains sense of the Congress language that any part of the increase deposited in the highway trust fund should be spent for transportation and that future budget resolutions should provide for this spending. It also endorses returning to the dedicated user fee principle no later than the end of fiscal year 1995.

These are important principles that I hope will be fulfilled in the coming years.

Again, I urge passage of the reconciliation bill.

□ 0450

Mr. FRENZEL. Mr. Speaker, I yield 5 minutes to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

(Mr. MICHEL asked and was given permission to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker and my colleagues, I certainly want to pay tribute at the very outset to my colleagues, the distinguished gentleman from California [Mr. PANETTA] and the distinguished gentleman from Minnesota [Mr. FRENZEL] and those others of the summiteers who began this tortuous trail months ago, as far back as May, and brought us to this point here this morning at 10 minutes to 5. I guess we are attempting to turn our backs on instant political gratification—the curse of this institution—and subject ourselves to long overdue discipline.

Mr. Speaker, the primary goal of this reconciliation compromise before us is credible, multiyear deficit reduction, and there is no denying, with all the complaints we hear, that the basic thrust of what we are doing here is reducing the deficit. One can argue about the degree to which that takes place, but that is what it is all about. The people all across this country have been telling us over and over to get on with it.

Very briefly, let us first look at a few things the package does not do:

It does not cut Social Security cost-of-living increases.

It does not increase taxes on Social Security benefits.

It does not reinstate the infamous bracket creep that was in the House-passed bill.

It does not increase taxes on home heating oil.

It does not include the provisions extending Medicare coverage to State and local employees not now covered.

It does not include the contentious 2-week waiting period for unemployment compensation.

And what about the positive side of the ledger? What does the package accomplish?

Spending, as a percent of gross national product, will fall from 22 percent this year to 18 percent in 1995.

Our entitlement reforms include over the next 5 years $15 billion in farm program savings; FHA reforms totaling $4 billion; postal reforms cutting back the $4.6 billion Federal taxpayer subsidy to the now-independent Postal Service; Federal work force reforms resulting in savings of $9.5 billion; veterans program changes, savings of $3.7 billion; student loan reforms saving $1.7 billion.

Then, Mr. Speaker, there is the Medicare Program savings totaling $43 billion. Providers will bear the largest burden of the Medicare reforms. Medicare beneficiaries are protected. Low income beneficiaries will continue to pay nothing.

Mr. Speaker, it is interesting that today I should receive a letter from the American Association of Retired Persons. I do not get one from them very often in this light, but I would like to read to you in part:

DEAR MR. LEADER: The American Association of Retired Persons commends you, the President, and the bipartisan Congressional leadership for concluding an agreement to reduce the federal deficit. The many months of negotiations have been a thankless but necessary task that we believe will contribute to the economic well-being of all Americans. We urge all members of the House and Senate to support the FY91 reconciliation bill.

We are pleased that this package moderates the increases in Medicare beneficiaries' out-of-pocket costs, when compared to the original summit agreement. We are, however, disappointed that the package reopens Medicare balance billing limits, allowing physicians to bill their Medicare patients more than was permitted under last year's Physician Payment Reform legislation. This is a serious step backward and one which we hope will not be allowed to extend beyond January 1, 1992 when the Medicare physician fee schedule is put into place.

Throughout this debate the Association has expressed its concern that a budget package must be responsive to the needs of low income Medicare beneficiaries, who will be particularly affected by any increases in Medicare cost-sharing requirements. In the face of increases in the Medicare premium and Part B deductible, we are particularly heartened by the Medicaid improvements that will help ease the cost of health care for lower income older and disabled Americans. These improvements coupled with major strides in health care coverage for low income women and children, also accomplished in this package, merit high praise.

The Association is also pleased that Social Security benefits have neither been cut nor taxed further in this package. Moreover, we believe that the removal of Social Security from the Gramm-Rudman-Hollings deficit calculation will help protect the promise of Social Security for future generations and eliminate much confusion about the nature of our nation's deficit. We also appreciate the protection of private pensions accomplished in this plan through the curtailment of the unacceptable practice of pension plan raiding.

This budget debate has again highlighted one of the most serious problems facing this country: escalating health care costs and the inadequacy of Americans' health care coverage. Even with this new budget in place, we will all continue to feel the growing pressure to constrain the cost of health care in the federal budget and to ensure that Americans have access to the health care they need. It is essential that we strive for more comprehensive reform of our health care system. With this budget behind us, we urge your attention to this critical issue.

In expressing our support for this package, the Association also commends you, Mr. Leader, for your leadership in shaping this difficult agreement. Older Americans are willing to pay their share of a fair, effective and progressive plan. This plan deserves hard-earned praise for making the tax code more progressive, for shielding our most vulnerable citizens from increasing health care costs, and for helping to restore confidence in our economy. These are difficult but worthy accomplishments for a deficit reduction package which will serve the interests of all Americans.

Mr. Speaker, this really should be music to Republicans' ears: There is strong enforcement provisions to be enacted into law. The Gramm-Rudman targets are extended through 1995. Binding caps on total discretionary spending are set in law, and that means for our minority here that it has got to pass this House, the other House, and pass muster at the White House. If it does not, even in a minority status, we can sustain a veto to have that. That is in law. That is something we have never had before. New entitlements programs cannot be passed which would automatically increase the deficit.

Mr. Speaker, as the gentleman from California so well pointed out in his remarks, "If you want to play, you've got to pay." The American people have told us that they want this divided Government to be a decisive Government.

This compromise reconciliation bill is the best the present views and circumstances of the country will permit.

Mr. Speaker, Alexander Hamilton used precisely those words: "It's the best the present views and circumstances of the country will permit," to describe another compromise that purists despised, and that was the Constitution of the United States.

To those who find fault with what we have done and prefer to do nothing, we can only reply: "From the days of Alexander Hamilton to the present the American people would rather have imperfect progress than perfect paralysis."

Mr. Speaker, I would urge my colleagues to vote for this reconciliation compromise, and we will have a chance to reconcile ourselves once again with the American people.

Mr. PANETTA. Mr. Speaker, I yield 4 minutes to the gentlewoman from Ohio [Ms. OAKAR].

(Ms. OAKAR asked and was given permission to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, I rise in support of the budget reconciliation this evening and am proud to support it, and I wanted to reemphasize some points related to senior citizens since in the very first budget package that came before us they took the hardest hit, and it was extremely, in my judgment, unfair, but I think Members should know, and our elderly and our families, that it was interesting that we heard from a lot of young people about that particular area as well, that the part B premium during 1991 for seniors will not have to pay an increase.

Mr. Speaker, we always revisit issues. I know this is a 5-year package, but I think we will revisit that, and I am pleased with that.

Another improvement is that seniors will pay $50 less for their annual Medicare deductible during 1995 than the defeated budget summit. State and local employees will not have to have a double hit, so they will not have to pay for the Medicare system since they have another health plan.

In addition, I think this is significant, that the cost-of-living adjustment, not only for Social Security recipients, but for Federal retirees, and railroad retirees, and military retirees, they will see their COLA increase at 5.4 percent in January, and another very significant part of this budget reconciliation is that for the first time in many years Social Security will really be off budget thanks to a provision that the gentleman from North Dakota [Mr. DORGAN] and others supported. Social Security will not be held hostage by the budget; and home heating oil was eliminated. There are other provisions that I think are excellent.

□ 0500

I wanted to especially thank the gentleman from California [Mr. PANETTA], my classmate, whom I have picked on in the past, and the gentleman from Minnesota [Mr. FRENZEL], and the majority leader and others, and especially the gentleman from Illinois [Mr. ROSTENKOWSKI], for fighting to have mammogram coverage put back into this package.

I think these gentlemen should know, and the American people should know, that for the first or second time in the history of Medicare, a preventive health care benefit has been added.

Mr. Speaker, we know that 42,000 women die of breast cancer every year. NCI, the National Cancer Institute, has said that if these women would have had a mammogram and early detection, 14,000 of these lives for sure would have been saved.

We know that when you have preventive health care you not only save money in the long run, but you certainly save lives.

Mr. Speaker, I want to thank the gentleman from Illinois [Mr. ROSTENKOWSKI] and the gentleman from California [Mr. PANETTA] and others publicly for making some Members in the other body take out their perks and extenders and all the things that we read about, and to extend this benefit for all the individuals covered under Medicare. It is very, very important.

Mr. Speaker, I also believe very strongly that this is the first step in having preventive health care included not only in Medicare, but in every policy in the United States. I really believe philosophically that if Members had no other reason to support this budget, remember, you are going to save a lot of lives by this provision.

Mr. Speaker, I want to thank Members for putting their feet to the fire. I apologize, I suppose, a little bit, but nonetheless, I think it was the right thing to do. You made us all proud.

Mr. Speaker, I again want to express my deepest appreciation for the support of the House leadership, Chairman PANETTA, Chairman ROSTENKOWSKI, Health Subcommittee Chairman STARK, and all your staff for keeping your commitment to me. At long last, low cost, cost-effective, life-saving screening mammography will be available to all American women covered under Medicare. When the Congress voted last November to repeal the 1988 Medicare Catastrophic Coverage Act, we also eliminated a major milestone in progressive, preventive health care coverage in the Medicare Program—we eliminated biennial screening mammography.

One out of every nine American women will develop breast cancer. The American Cancer Society reports that 42,000 American women died from breast cancer in 1988. Studies have

convincingly shown that regular mammogram screening can prevent one-third or 14,000 of these deaths. Approximately 4,000 of these women are Medicare beneficiaries. The average cost of a mammogram is $100 to $120, which most Medicare beneficiaries can scarcely afford. Twenty-five States now mandate coverage of screening mammography by private health insurers. Today, Congress has a chance to take decisive action in support of cost-effective prevention in its public health policy. It is quite clear that the early treatment of the breast cancer victim costs about $10,000 to $15,000. The cost of cancer treatment in the second and third stages of development is approximately $65,000 to $125,000. Since I started fighting, over 6 years ago, for the inclusion of this benefit under Medicare, over 200,000 women have died from breast cancer. THis is almost four times the number of American casualties in all 10 years of the Vietnam conflict. THe National Cancer Institute, as well as the American Cancer Society recommend a baseline mammogram at age 35 and regular screening every 1 or 2 years beginning at age 40, and annual mammography screening for all women over age 50.

I would like to add that the action we take here today on this provision should be a tribute to my dear friend, the late Rose Kushner, whose name will be instantly recognized by all who have fought for the causes of cancer patients. Her perseverance and single-minded devotion to these issues will be profoundly missed, especially at this time when we are so close to reaching many of her goals. Her generosity in helping others was unsurpassed, and I wish she was here to share this success. The legacy of Rose Kushner will be realized when we pass meaningful legislation which can bring hope, comfort, and a cure to the victims of cancer. We have begun by having funding increases in research for breast cancer.

Finally, we have thought of our children—of our young people. By comprehensively addressing the deficit we have said "no" to mortgaging the future of our children.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. ARMEY], a member of the Committee on the Budget.

Mr. ARMEY. I thank the gentleman for yielding.

Mr. Speaker, I am a member of the Committee on the Budget, and I know practically nothing about this reconciliation package. I must confess I have seen the poke, but I have not had much chance to examine the pig that is in the poke.

That is better than I did with the budget to which we reconciled with this package. I never did see that package.

So what can I tell you I know? From the summary sheets I have, as near as I can tell, by comparison with continuing, if we just continued for the next 5 years to do what we did in fiscal 1990, which was to actually spend $1,252,000,000,000 and actually take in revenue $1,032,000,000,000, now, if we did that for the next 5 years, or if instead we did meet the outlay targets and the revenue targets that are summarized in this bill, we will, by passing this bill, add to what we are currently doing over the next 5 years $1,273,000,000,000 in new revenue taken from the American people.

That is more than the current budget of the United States. That will be added in the next 5 years in revenue.

We will spend an additional $900 billion in the next 5 years over what we are currently doing. For that, we will ge something in the neighborhood of 500 billion dollars' worth of deficit reduction.

I do not consider that a good deal in terms of the alternatives that were not allowed on the floor.

Mr. Speaker, let me make one final point: I was elected to represent the people who hired me, not the Government.

Mr. PANETTA. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Illinois [Mr. DURBIN], a member of the Committee on the Budget.

(Mr. DURBIN asked and was given permission to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, this is not my solution to the budget deficit challenge which we consider this evening. I voted for the Democratic plan. It was a better plan. No gas tax, income tax increases for the wealthy, and a capital gains plan designed to help working families, family farmers, and small businesses.

But our House plan stumbled in the Senate and was flatly rejected by the President Bush.

Tonight we have a new plan. Not the best, but the best that we can do. Instead of higher taxes on the wealthy, which the President rejected, we have another damnable bubble. How much simpler this process would have been if the Republicans would have accepted a 33-percent tax rate for the rich, and a surcharge on millionaires.

Nevertheless, I am going to vote for this, and explain to my constituents that its passage was essential for the benefit of the American economy. But even after the House and Senate have acted, action must be taken under our Constitution by the President to make this bill a law.

I would hope that if the President signs it we will not hear comments from him afterward second guessing what was done. If the President does not like this bill, he should not sign it. If he does not agree that is the best interest of the Nation, he ought to veto this bill.

But if the President signs it, I hope he does not try to sell to the American people the story that he really did not sign it into law, or that the Democractic devil somehow made him do it.

This bill and the buck stop in the Oval Office. If the President buys it, if he believes it is in the best interest of the Nation, and if he signs it, I hope he does not demean our constitutional process by telling this Nation that his signature on this bill was somehow coerced.

If politics is the art of compromise, this bill is an art form which may not quality for an NEA grant. But to me, it is an artful compromise, which is progressive and essential for this Nation to come to grips with its most challenging economic problem.

Mr. FRENZEL. Mr. Speaker, I yield 3½ minutes to the distinguished gentleman from North Carolina [Mr. MCMILLAN].

(Mr. McMILLAN of North Carolina asked and was given permission to revise and extend his remarks.)

Mr. McMILLAN of North Carolina. Mr. Speaker, as a supporter of the original budget summit agreement, I rise in support of this final compromise make. No mistake about it; it is a compromise, designed to capture enough votes to pass and be signed into law by the President.

Every Member can easily find things they don't like about it and opt out. I could cite reasons to oppose it because of this or that special interest, even some long-held commitments. But after the initial special interest complaints, it is the American citizens' expectation that we decide in the national interest. And the national interest is clearly to pass a tough $490 billion deficit reduction package that is balanced and fair and achieves $7 of spending cuts for each $3 of new taxes—one that can achieve balance in 5 years.

It repesents the most serious and enforceable restraint we've seen her in decades. Spending caps with sequester discipline designed to hold growth in total outlays over 5 years to a compound growth rate of 2.2 percent per year. Compared with double-digit increases in the cash, 1980's 4 to 5 increases since Gramm-Rudman.

I would prefer not to raise taxes at all but given the fact that Congress has failed to reduce spending enough for over a decade, it is compelling to do, so if we are serious about deficit reduction and to do so with balance and fairness. The rich aren't complaining and the middle-income wage earner should breathe a sigh of relief that this is not the Democratic-sponsored House version of the bill.

I am willing to join the 100 percent antitax bandwagon if those same Representatives were willing to join the 100 percent spending freeze bandwagon which would double our numbers; they go hand-in-hand. But, I've have been on this floor many times over the past 6 years speaking and voting for Frenzel's "freeze" amendments or the Penny 2-percent reductions in appropriations bills and seen such efforts go down in smoke—even mirrors. Many of those who say they won't tolerate more taxes will not tolerate minor restraints in their pet farm, water, or road programs. Well, you can't have it both ways; the day of judgment is here.

To those good friends of mine who consider the word "compromise" a four-letter word; I would suggest that governing in a republic is compromise when the national goal is compelling. And if you do not think compromise is the key to our political history, you should study how the Constitution was hammered out in Philadelphia.

The cost of eliminating the deficit should be shared fairly by everyone. This deal does it. To those who took a "no new tax" pledge 1, 2, or 4 years ago, we live in a drastically different world today. We lost our opportunity long ago to do it through spending restraint and economic growth alone. Eight years of strong economic growth have not erased it, because Congress failed to hold the line on spending.

I would not claim this package is a final cure. It is only a tough-minded start because the true test will be living up to its spending restraints, and what it yields in economic growth. It is our best hope for reducing interest rates and restoring savings and confidence which are the greatest of all growth stimulants.

It is not so tough in the first year to be recessionary—it is hopefully tough enough to convince Americans that we will balance the budget in 5 years.

It is the only winnable and credible option we have. The American people will complain about their frustrated special interests—and may even forgive us that—but they will never forgive us for failing to deal effectively with America's No. 1 problem.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Illinois [Mr. HYDE].

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, I rise in opposition to the national aviation noise preemption provisions, in subtitle D of this bill entitled "Aviation Noise Policy" for the following reasons:

The noise preemption aspects of the bill are a blatant attempt by the airline industry to destroy the longstanding structure of Federal, State, and local power to address aircraft noise that has been established by the courts, the Congress, and the executive branch for the last 30 years.

This raw power grab is being done: First, without benefit of hearings on these preemption provisions, either in the House or the Senate; and second, at the 11th hour by being tacked on to the massive budget reconciliation bill. A decision as important as this is to the lives and welfare of millions of noise battered citizens, should be fully debated in the light of day, by both Houses of Congress—not greased through by legislative legerdemain.

The bill attempts to destroy significant longstanding local powers to control noise—leaving important decisions as to how much noise an airport community may desire and tolerate to the whim of a Federal bureaucrat hundreds, if not thousands, of miles away in Washington.

The bill gives the airline industry a Federal license to pollute—a Federal environment immunity no other industry enjoys. All other industries under the Clean Water Act and the Clean Air Act must meet Federal baseline environmental standards plus more stringent local standards adopted by State and local governments.

The bill's onerous provisions are an open invitation to municipalities to avoid construction of desperately needed new airport capacity. If some Federal bureaucrat can tell the municipal operator to use the new facilities without regard to the municipality's environmental decisions, the overwhelming incentive at the local government and State level will be to avoid or prohibit construction of new airports.

By the artifice of couching these destructive provisions in a deliberately soft and ambiguous term "national aviation noise policy," the airline industry has foisted upon us, a bill that is a disservice to the millions of citizens currently victimized by aircraft noise, and its passage tonight is hardly to our credit as a representative body.

For these reasons—among others—this bill should be rejected. We should address the issues encompassed in a prospective "national aviation noise policy" by carefully examining and considering the impacts of each of the suggested elements of the policy. Incidentally, one governmental official was overheard to remark during the final stages of drafting this bill that "This national noise policy will really stick it to the communities. We will have these stage II aircraft flying until 2015." This statement typifies an attitude to which the people, who must endure this noise, most strongly resent.

However, my purpose here is not to dwell on the bad things that the bill does. My purpose here is to emphasize what this legislation does not do. Nothing in this legislation—or in the virtually nonexistent legislative history underlying the legislation—addresses or attempts to preempt any of the longstanding rights and authorities:

The legislation does not address, or purport to preempt constitutional power of the States under the U.S. Constitution to expand, contract, limit, or otherwise alter the powers of the States' political subdivisions to construct or operate airport facilities. Because all municipalities which operate airports—as well as interstate compact agencies or authorities—construct and operate airports only pursuant to express State legislative authorization, nothing in this bill permits or authorizes the airport operator to exceed the limits of that State authorization. Moreover, nothing in this bill prevents the States from reducing or restricting the breadth and extent of the municipal operator's power to build and operate airports. Indeed, any attempt by the Congress to interfere with or override the powers of a State to expand or contract or abolish the powers of the State's political subdivisions would likely be unconstitutional.

Nothing in the bill purports to restrict or preempt the power of the States or their political subdivisions who operate airports to decide: First, to go out of the airport business altogether; second, to refuse to expand the physical facilities at the airports; or third, to reduce the level of airport services they provide. The airline industry and its allies have forgotten that it is the States and their political subdivisions—not the Federal Government—which bear the decisionmaking burden and authority to take on the entrepreneurial role of airport operators. The Federal Government does not have the authority or resources to site, build, and operate airports. Nor does the Federal Government have the constitutional or statutory power to order the States or their political subdivisions to build and operate airport facilities, or to maintain certain hours of operation. If an airport operator wanted to reduce its costs and shut down during the hours of 10 p.m. to 7 a.m. to save electricity costs and labor costs or keep a runway closed to save maintenance costs, there is nothing in Federal or constitutional or statutory law which could command that the operator stay open all night, or spend the maintenance money to open the runway, or to construct new runways.

Moreover, there is no impediment in the commerce clause—which the legislation purports to implement—which prevents the States or their political subdivisions which operate airports from deciding: First, to go out of the airport business altogether; second, to refuse to expand the physical facilities at the airports; or third, to reduce the level of airport services they provide. As market participants—as opposed to regulators—the States and their political subdivisions who are airport entrepreneurs are entitled to restrict or reduce their service or go out of business altogether without violating the restrictions of the commerce clause. As entrepreneurs, the States and their political subdivisions are in no different position than any private business entity that decides to restrict its level of business operations or go out of business altogether.

Nothing in this legislation addresses or purports to preempt the long-existing rights of school districts, hospitals, homeowners, or other persons suffering noise or air pollution injuries from aircraft operations from recovering property damage and personal injury under State tort law and State constitutional law. Under existing law, there is no preemption of these remedies and the damages are paid by the airport operators—who in turn pass these damage costs on to the airlines under airport lease indemnity agreements. Knowing the airlines and airport operators they will attempt to claim that the intent of Congress in passing this legislation was to preempt these critical State law remedies, but there is no legislative history to support such a claim.

Nor can the operators claim that this legislation leaves them without recourse to control noise. As noted above, nothing in this legislation or the Constitution can or could mandate that the States and their political subdivisions take on the entrepreneurial role of airport operator or mandate that the operator maintain a certain minimum level of business activity. Nothing in Federal law mandates that the operator put the airport where it is located or mandates that the operator build the number of runways that it has constructed. These have been and remain the decisions of the operator; and the operator—consistent with long-standing law—is responsible for the noise and air pollution injuries caused by the level of operations at that airport.

I cannot overemphasize the importance of these State law remedies. The Federal fifth amendment "Taking" remedy is simply inadequate. The Federal judicial remedy is limited to diminution in property value; it does not provide damages—as does State law—for the

cost of repair for such items as soundproofing and for repainting pollution stained houses and public buildings. Further, the Federal remedy provides no damages—as does State law—for personal injuries caused by aircraft operations. Finally, because of a quirk in the Federal statute of limitations under 42 U.S.C., 1983, the Federal courts have construed the statute of limitations for taking of property to be only one or 2 years—a limitations period far less than State statutes of limitations for inverse condemnation actions for takings of property under State constitutions.

Finally, it is my understanding that under this legislation the Secretary of Transportation is required to draft a proposed national aviation noise policy which will be submitted to the Congress for review and approval. At that time we will have the opportunity to correct any of the findings and provisions of the current legislation.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Montana [Mr. WILLIAMS].

(Mr. WILLIAMS asked and was given permission to revise and extend his remarks.)

Mr. WILLIAMS. Mr. Speaker, concerning the child care section of this legislation, it is vitally important that we realize what we are creating here today. These are new programs for early childhood education—we are not here establishing warehouses for the custody of children.

There is good reason for us to pay attention to this program of child care—and child care for preschoolers in particular. We know from the vast array of evidence presented to the Committee on Education and Labor that quality child care helps to improve dramatically, a child's academic and social preparedness for elementary school. This data parallels our known experience with Head Start; that quality child care and quality early education does what it promised to do—it helps otherwise disadvantaged children, prepare for getting the most out of elementary school.

If the child care legislation before us today is adopted, we know that in the years ahead, as we are asked to appropriate more funds for these programs, that we will inquire about how valuable the programs have been for the limited numbers of children who will have been accommodated so far. This value that we will measure is whether the experience has been educational, whether it has, in fact, prepared children for their future academic and social experiences in school.

In testimony before the Committee on Education and Labor, Matia Finn-Stevenson, an expert in early child care stated and I quote:

> A number of developments have contributed to the growth of school-based child care programs, including the increased awareness of the need for good quality child care services * * *. This interest, evident in schools' involvement in a variety of parent education and prekindergarten programs, has been fueled by research findings which have attested to the long-term benefits of early intervention. Early childhood programs are based on the premise that providing children with a head start on successful experiences in school will yield educational and other long-term benefits.

In the development of childcare legislation, I held out firmly in protecting the constitutional provision for the separation of church and State. It is in fact this controversy, over church and State, that has played a major role in the delay of enacting necessary and important child care improvements for our families. The argument centers on whether Federal tax dollars will go to churches who provide child care with no protection or questionable protections against discrimination or entanglement.

The Supreme Court, in Lemon versus Kurtzman, articulated a three-part test for determining whether a legislative or administrative act violates the Constitution's prohibition against laws "respecting an establishment of religion." First, the action must have a valid secular purpose. Second, it must not have as a primary effect the advancement or inhibition of religion. Third, it must not foster excessive entanglement between government and religion. This child care legislation before us today is questionable on the primary effect, and according to several constitutional experts, clearly unconstitutional on entanglement. These arguments have earlier been debated.

Americans United for Separation of Church and State in a summary of this bill writes:

> Preschool day care and school-aged day care, both included in this act, involve substantial educational components and include counseling where religious issues and values may be communicated. For this reason there can be no meaningful constitutional distinction between tax-supported aid to elementary and secondary schools, which the Supreme Court has consistently struck down as a violation of the establishment clause. In fact, preschool programs may be even more constitutionally suspect, because of a more direct, personal involvement between the teacher and the child in preschool programs as distinguished from that in elementary schools.

Donald J. Cohen, M.D. publishes in the then U.S. Department of Health, Education and Welfare, and describes nursery schools as "educational programs available only part time—usually half a day from 2 to 5 days a week." These programs are to "concentrate on the child's social, emotional, and cognitive development." The years from 3 to 6, the publication points out "are an optimal period of mastering certain developmental tasks. Preschool developmental day care presents many opportunities to help a child master such tasks."

Americans United for Separation of Church and State tells us:

> There has been an attempt by proponents of this bill to distinguish between tax aid to church-affiliated elementary and secondary schools and aid to church-affiliated day care programs. Churches operating day care programs know that there is really no valid distinction between the two. Both have specific educational components. Both involve teaching and counseling students of young and tender years. Both use church-hired personnel. Both have some religious purpose. And all involve the ministry of the church. This is true of a wide spectrum of religious bodies."

The Rev. Alfred Jenney, president of the American Association of Christian Schools has testified:

> As far as the way we look at it * * * it's all just school whether it be 2-year-old children or 12th grade children. It's all just school. We don't look at it and say now, Do you have a high school, a junior high school, a grammar school, a kindergarten, a day-care facility, because it's all an educational operation, and it's all school to us. All of our education is religious.

In February, 1988, Reverend Moon's unification church opened its own child care center in New York. Their goal was to "help all young blessed children to establish the right kind of foundation to attend heavenly Father before they start going to public schools."

Child care has, whether we admit it or not, a significant, if not overwhelming, education component. The American Civil Liberties Union states:

> Proponents of child care have spent the past few decades quite properly advancing the view that child care was not a mere custodial social service, but was an educational opportunity for pre-schoolers. It is impossible to seriously argue that Supreme Court precedent on private, religious "educational" programs is irrelevant because this bill promotes "child care."

American Civil Liberties Union goes on in their testimony to state:

> The human interaction and institutional goals of most "child care" programs for 4-year-olds would be indistinguishable from the "educational" program for 5-year-olds in kindergarten.

Child care is, my friends, education. And if education does not take place, it is not quality child care.

It has been disheartening to me that many of my friends who share concerns for the children and families of this Nation, are ready to abandon the church-state separation to get a child care bill through the Congress. I voted against this bill before when it passed the House, for these reasons. And I will vote against it again today for the same reasons.

We had options open. We could have excluded all religious organizations from participating as providers of child care. This would have been, from a strict and rigid constitutional perspective, the safest. We knew, however that one-third of the child care now provided in our country is offered by church-affiliated groups.

We could have, and I supported, allowing child care to be housed in church-related facilities, but with stong, certain language concerning management and instruction.

But we did not do this. In this conference report before us today, the Congress is all but abandoning strict separation. And that is why so many of the Members of this body sidestep the issue and insist on calling what we're doing—child care, and not education. This is why there is this strange reticence about conceding that childcare is principally an education activity. By falsely claiming that this is strictly child care and not education, there is an avoidance of dealing with the very real, still unresolved church-state problems in this legislation. The Congress knows it could not get away with subsidizing religious instruction and permitting religious discrimination in any existing federally funded educational program. There is a long line of Supreme Court cases that make it abundantly clear that Government funds for discretionary educational purposes cannot be transferred to what the court calls pervasively sectarian institutions like churches, synagogues, and parochial schools. This transfer of funds, from Government to religious institutions has consistently been held to be in clear violation of the principle in the first amendment against the establishment of

religion, against Government support for any or all religions.

Mr. Speaker, we know that the primary beneficiary of the grants under this bill will very likely be religious institutions. We also know that these religious institutions have often viewed their child-care programs as an adjunct to their religious mission and outreach. Make no mistake about this. American religious institutions have a long and honorable history of aiding the children in their communities. That is commendable. What we have to remember is that these churches and synagogues have been doing this all these years without the spigot of Federal funding and without any regulations imposed as a legitimate corollary to that funding.

What we are doing here today, is different, we are about to enact legislation which will, for the first time, permit funds to go to religious institutions without the safeguards that we impose on other funding to religious institutions.

We would not think of permitting an elementary school receiving Federal funds to discriminate in hiring or admissions. We would not permit discrimination whether there was $1 or $1 million of Federal funding involved. Yet, in this legislation, we permit just such discrimination. We state in this legislation that there can be religious preference in child-care facilities which receive less than 80 percent of their budget from the Government.

Why, then, should this principle change when the child is 4 years old instead of 7 years old? Why should the nondiscrimination guarantee of our Constitution be altered when the program funded is after 3 o'clock instead of at noon?

For too long in the consideration of vitally important child care legislation for our Nation's families, we have been operating on the basis of fiction, on the basis of ignoring the Constitution. It is time to return to facts. It is time to set the record straight. Whether we admit it or not, we all in this Chamber today know that the funding in this authorization bill will go, in part, to the education, nothing less, of American children in institutions which have always viewed a part of their role to be the religious nurture of the young.

Of course, we need more available child care slots; we need to make a national commitment to helping parents find and fund safe and reliable quality child care. We do not just want to warehouse children and this bill does not do this. Throughout this legislation we talk of quality. We cannot have quality child care without education.

In our commitment to American families, we cannot and we must not avoid other commitments of this body. We must continue, as we have in the past, to prevent the Government from subsidizing religion and affirm that discrimination with Federal funding is always wrong.

Mr. PANETTA. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Michigan [Mr. FORD], chairman of the Committee on Post Office and Civil Service.

(Mr. FORD of Michigan asked and was given permission to revise and extend his remarks.)

Mr. FORD of Michigan. Mr. Speaker, I rise in support of the matter before the House. No committee has had to wrestle harder and inflict more pain on more people than the two committees upon which I serve. It is not a pleasant proposition to support, but in my opinion it is absolutely necessary, and I am justifying this vote tonight on the ground that I am going to be able to look at my grandchildren, and I have three grandchildren of whom I am very proud, and say we finally started to take a step to let this generation pay its own bills and not put everything on the credit card for them to pay when they become the taxpayers of this country.

Mr. Speaker, the conference report we consider today includes a number of matters within the jurisdiction of the Committee on Post Office and Civil Service. While I was appointed as a conferee on these matters, I refrained from signing the conference report. I did so because I disagreed with the policy changes incorporated in the conference report. As in previous years, the defeated bipartisan budget summit agreement and subsequent reconciliation effort have been ignorant of the merits of public policy, instead, driven purely by the numbers. As an elected representative, I take offense at this mindless exercise.

If the conference report has any merit, it comes via not what it does but what it does not do. To paraphrase, "Ask not what this conference report does for you, ask what it does not do to you."

For the most part, the reconciliation conference report rejects the policy initiatives submitted by President Bush as part of his fiscal year 1991 budget.

CIVIL SERVICE MATTERS

President Bush recommended a 3.5-percent pay raise, effective in January 1991, for Federal white collar employees. Congress has seen fit to provide, in the fiscal year 1991 Treasury, Postal Service appropriations bill, a 4.1-percent pay raise for civil servants as a precursor to a pay system reformed through legislation which resulted from hundreds of hours of negotiations between the Committee on Post Office and Civil Service and the administration.

President Bush recommended the elimination of retirement COLA's for all civil service retirees, a diet COLA for CSRS participants, and the elimination of the lump sum retirement option. The reconciliation conference report dismisses the President's COLA slashing and includes only a 5-year suspension of the lump sum retirement provision, affording qualifying employees a reasonable opportunity to retire with the lump sum option intact for those who retire by November 30, 1990, or, in the case of employees essential to Operation Desert Shield, by November 30, 1991. Even during the short suspension of the benefit, the lump sum option would be retained for retirees who are involuntarily separated or faced with a life-threatening affliction. Common sense and common decency dictate no less, the overtures of President Bush's Office of Management and Budget notwithstanding.

President Bush also recommended a series of reforms for the Federal Employees Health Benefits Program [FEHBP], along with proposals which would shift costs from the Federal Government employer to FEHBP enrollees. The conference report includes those Bush administration recommendations which the Committee on Post Office and Civil Service found least offensive, and which, in the committee's judgment, posed the least threat to the health and well-being of Federal employees, retirees, and their dependents.

These initiatives include hospitalization cost containment measures, improved cash management, an exemption from State premium taxes, improved coordination with Medicare, and the application of Medicare part A hospital limits on FEHBP annuitants who are otherwise non-Medicare eligible. I should note that several of the matters legislated in the reconciliation package have already been undertaken administratively by the Office of Personnel Management. The intent of the conference agreement is merely to lend credence to these efforts and, more importantly, achieve permanent, quantifiable savings in the budget "shell game."

POSTAL SERVICE MATTERS

The Bush administration, continuing with the Reagan administration craze, proposed to treat the U.S. Postal Service as a cash cow—milking it dry at the expense of the Service, postal employees, and the American ratepayer.

Unavoidably, and despite the better wishes of many of us, sections 7101 through 7103 of the conference measure bite a hefty chunk out of the finances of the U.S. Postal Service. The practical effect of these sections is to transfer responsibility for COLA's and health benefit premiums for Postal Service employees retired during the period July 1, 1971, through September 30, 1986, and their survivors, from the Federal budget to the budget of the Postal Service. Over the next 5 years, the Congressional Budget Office estimates that the retroactive payments and funding requirements imposed on the Postal Service by this act will add up to about $4.8 billion.

Ultimately, these costs will be paid by the same persons who pay all the other costs of the Postal Service, postal ratepayers. Past reconciliation acts in 1985 and 1989 will by 1995 pile close to $4 billion in cost increases on the Postal Service, to be recouped from postal ratepayers. By effectively doubling that load, we absolutely guarantee that postal rates will be higher than they otherwise would have been.

My colleagues should understand, and there should be no doubt, that the imposition of these new costs on the Postal Service will have an impact on the current postal rate before the Postal Rate Commission—Docket No. R90-1. Consistent with the requirements of the Postal Reorganization Act of 1970, as well as the practices and procedures which apply to such matters, the Commission cannot ignore the fact that the costs of Postal Service for the period covered by the rate case have been increased by a specific and significant amount. The Commission will simply have to take this new factor into account in its deliberations.

The conferees considered, but did not adopt language which would have established specific rules for the treatment of these new costs in the current and future rate cases. Resisting the urge to micromanage, we ultimately decided that a better course was to leave the Commission free to do its job, and to consider these new liabilities to the same extent and in the same manner it would consider any other specific new postal cost. I am confident that the Commission will deal responsibly and ex-

peditiously with this matter, as it has with similar matters in the past, recognizing that it provides no basis to delay the scheduled completion of the current rate proceeding, or to sidetrack that proceeding.

Under an accounting standards change now being considered, we understand that the question might arise whether the payments to be made by the Postal Service under this bill should be construed to relieve the Federal Government for the ultimate payment of retiree health benefits. If so construed, this bill might require postage ratepayers to suffer much larger rate increases, beginning in fiscal year 1994, than otherwise will be required. It is our intent that these payments are to be viewed solely as contributions to the Federal Employees Health Benefits Program, which remains a responsibility of the Federal Government.

Mr. Speaker, as a conferee from the Committee on Education and Labor, I rise in support of the conference report on the budget reconciliation bill and would like to clarify a few points about the increase in civil OSHA penalties included in the bill. The bill includes a sevenfold increase in maximum allowable civil penalties under OSHA and the establishment of a $5,000 mandatory minimum penalty for willful violations of OSHA. These changes are a significant improvement in the health and safety protections provided American workers. Civil penalties under the OSH Act have never been adjusted in the 20-year history of the act. In recent years there has been concern the OSH Act has not lived up to its stated purpose: to "assure so far as possible every working man and woman in the Nation safe and healthful working conditions." It is shocking to note that in one State in recent years, the average penalty assessed for serious violations of the act in cases where a fatality occurred was only $32. These changes in civil penalties are included in this bill because, in addition to reducing the deficit, they provide a significant improvement in worker health and safety protection.

Those States operating under federally approved plans will also be required to bring their plans into compliance with these new civil penalties. The penalty changes in the bill are amendments to section 17 of the OSH Act. There are no changes in section 18 of the OSH Act. The requirement in section 18 that the State plan be at least as effective as the Federal system with regard to safety and health standards and the enforcement of such standards remains unchanged.

Thus, a State operating under a federally approved plan will have to reexamine its current plan to ensure that its enforcement mechanisms are at least as effective as the OSH Act, as amended by this reconciliation bill. In addition, the Secretary of Labor, as part of her responsibility to make a continuing evaluation of State plans, may have to take additional action to ensure substantial compliance with the OSH Act.

I also strongly support title XII of the bill. Title XII contains amendments to both the Internal Revenue Code [the code] and the Employee Retirement Income Security Act of 1974 [ERISA] relating to the use of so-called surplus pension assets and increasing the annual per capita premiums paid by single-employer defined benefit pension plans to the Pension Benefit Guaranty Corporation [PBGC].

In general, the provisions relating to the use of pension assets would increase the current reversion excise tax under section 4980 of the code from 15 percent to 50 percent. The tax would be reduced to 20 percent if the employer either established a qualified replacement plan with a cushion equal to 25 percent of the excess assets or increased benefits to participants in the terminating plan—provided that the aggregate value of the benefit increases are equal to 20 percent of the excess assets. In addition, title XII of the bill would permit, on a temporary basis, annual transfers of assets above a certain level from an ongoing pension plan to a separate account within the pension plan—a section 401(h) account. These assets must be used to pay retiree health expenses for current retirees who are also participants in the pension plan.

As the Committee on Education and Labor struggled with the problem of pension reversions over the last several years, we have had one goal: to encourage plan continuation, not plan termination. To that end, the various proposals the committee considered favorably were based on the concept that assets contributed to a pension plan ought to be used to pay pension benefits for the participants in that plan.

It is no surprise that this was our approach: pension assets represent the deferred wages of workers. Employers that prematurely terminate their pension plans to convert pension assets to other corporate uses are acting contrary to the purposes of the Employee Retirement Income Security Act of 1974 [ERISA]. Study after study has demonstrated that workers, retirees, and taxpayers are harmed when employers prematurely terminate their pension plans because active employees generally receive lower future pension benefits and retirees are less likely to receive cost-of-living adjustments.

I am pleased that the conference agreement provides a strong financial incentive for an employer terminating a defined benefit plan to maintain a qualified retirement plan following the termination or to provide benefit increases to plan participants before terminating the plan. It does so by allowing an employer to recover a greater share of the residual assets if the employer decides to establish a new plan or increase benefits, than the employer would be able to recover if it simply paid the tax.

The conference agreement also ensures that the interest of the taxpayers is protected by increasing the excise tax payable when an employer receives a reversion to either 50 percent or 20 percent, depending on whether the employer chooses to protect active workers through a replacement plan or active workers and retirees through prorata benefit increases.

Another provision in the conference agreement represents a temporary attempt by Congress to provide some flexibility to employers with large retiree health liabilities. Employers and unions are struggling to cope with ever-escalating costs of retiree health benefits. Some large employers with overfunded pension plans—that is, plans with assets that currently exceed liabilities—have been urging Congress to allow them to transfer a portion of the pension plan surplus to a separate retiree health account within the pension plan. Under the fiduciary provisions of title I of ERISA, once assets are contributed to a pension plan, as long as the plan is ongoing, those assets may only be used to pay pension benefits and reasonable administrative expenses. So transfers of pension assets from an ongoing pension plan to this type of account cannot be made currently without violating title I.

Despite my concern over health care costs and the ability of employers to meet those costs in the future, I have reservations about permitting employers to reduce overall benefit security in the pension plan by transferring pension assets to satisfy an employer's preexisting and independent retiree health obligations. Although many pension plans may appear well-funded today, those assets are needed to pay future benefits. An economic downturn or a change in the employer's financial condition could eliminate surplus assets overnight and jeopardize benefit security. With some reluctance, the conferees have agreed to a temporary experiment. For 5 years, employers will be able to tap pension assets to pay health benefits under certain circumstances. During that period, we will be carefully monitoring the situation to make sure that participants and retirees are not disadvantaged by these transfers.

In order to minimize that possibility, the conferees agreed that the statutory changes necessary to effectuate the transfers clearly reflect the fact that the usual strict fiduciary requirements under ERISA apply to retiree health transfers.

The decision to transfer assets out of the pension plan is a settlor—and not a fiduciary—function. However, the implementation of that decision is a fiduciary function. For instance, because the level of the cushion required under the new section 420 of the code represents the maximum amount of assets that could be transferred under the code and ERISA, a fiduciary with respect to the plan must determine whether, given the actual facts and circumstances with respect to the particular plan, it is prudent to transfer as much of the amount of assets above the cushion described in section 420 of the code as the law allows. The intent of Congress with respect to these transfers is clear: the general fiduciary duties of an ERISA fiduciary and the legal and equitable remedies available if fiduciary duties are breached apply to the implementation of the employer's decision to use the retiree health transfer mechanism. Consistent with those duties, the fiduciary must ensure that the solvency of the pension plan and its ability to deliver pension benefits in the future are not jeopardized by the transfer.

In addition, the transfer cannot contravene any other provision of law. This provision is designated to clarify that the amendments to ERISA and the Internal Revenue Code authorizing the transfer do not supersede any other legal restrictions that prevent or limit an employer's ability to divert pension assets to satisfy other preexisting corporate liabilities for

retiree health benefits. For instance, if the pensions plan is collectively bargained, the ability of an employer to transfer assets from an ongoing pension plan to a section 401(h) account is subject to collective bargaining. An employer's ability to transfer assets is also subject to other laws, such as those that regulate Government contractors.

Finally, Mr. Speaker, I want to express my support for the conference agreement on child care. As the ranking member on the Education and Labor Committee, I cosponsored the ABC bill some 4 years ago and was a sponsor of the Education and Labor Committee's child care bill, H.R. 3, in this Congress. The conference agreement incorporates some of the provisions embodied in both of these bills.

I support the final compromise because it appears to be the best child care package we can achieve under the present circumstances, and it is one the President says he will sign. The compromise falls far short of what we expected to send to the President just 1 month ago. That agreement authorized more than twice as much funding for child care. It included wraparound services in the Head Start Program to enable children to remain in the same Head Start Program for the full day if their parents work or are in school. It established a formula-driven school-based program for before and after school care and preschool care. And, it established a separate program of grants and loans to encourage businesses to develop childcare programs for their employees.

The childcare compromise we are considering today as a part of the reconciliation package establishes a $750 million block grant to be distributed to States based on their relative numbers of children and relative poverty.

Under this new block grant, three-quarters of the funds received by each State would be used for direct assistance to low-income parents for child care services, with some funds being used for related child care activities. States would be required to establish certificate programs for parents who would be able to select from a range of child care providers. Eligible providers include relatives, family providers, churches, synagogues, centers, schools, and employers which have met certain health and safety standards.

Twenty-five percent of the funds would be reserved for before and after school services and early childhood development programs offered through schools, with a portion reserved for activities such as resource and referral programs which improve the quality of child care.

The reconciliation package also includes the following provisions for children and their parents which are outside the jurisdiction of the Education and Labor Committee: expansion of the earned income tax credit, a child health care tax credit, and a child care block grant under the Social Security Act.

Mr. Speaker, GUS HAWKINS, chairman of the Education and Labor Committee, was able to salvage more than anyone expected in this final compromise package because of his perseverance to do what was right, rather than what was expedient. I would like to commend my colleague for his tireless work on this major Federal initiative and for leaving behind an even larger legacy for the children for this country whom he championed.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. SCHEUTTE], a member of the Committee on the Budget.

(Mr. SCHEUTTE asked and was given permission to revise and extend his remarks.)

Mr. SCHEUTTE. Mr. Speaker, I thank the gentleman for yielding the time.

Mr. Speaker, I rise in opposition to this proposal which is a tax increase proposal on middle-income Americans.

Look at this package. It has only been completed at 4 a.m. this morning, 1,600 pages, 2 hours of debate on a 5-year plan, one of the most important economic decisions we will make in this Congress and for this decade. What does it have? A deficit that will increase next year for fiscal 1991, tax increases of $140 billion, and domestic discretionary spending increases of $164 billion.

How can you call that deficit reduction? You cannot.

This is a tax increase proposal with no spending enforcement mechanism in the outyears.

The issue is not who to tax, or when to tax or how to tax. The issue is why would you tax. When this economy is on the brink of a recession, why throw it into reverse? When small businesses are making decisions whether to lay people off or keep them on the job, expand their businesses or contract, why would you take money out of people's pockets?

And talk about being competitive, if you sink this economy into a recession by higher taxes, you will not be helping this country in the future.

Mark my words, middle-income taxpayers will receive a tax increase in this bill if we pass it, and their days are numbered in the future, because the appetite in this Congress for more taxes is unending.

I urge my colleagues to vote no on this measure.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. ANDREWS].

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. Mr. Speaker, For the past 3 weeks, the people of America have watched the Congress and have not liked what they have seen. If you listen to them—and many of us have—they think that we are incapable of governing. This budget plan before us today redeems us. It is progressive and fair, and shows that we have the courage to make hard choices on the budget.

Today we are reducing the deficit by cutting spending. Two-thirds of this 5-year agreement is spending cuts. A big chunk of that comes from the bill we're voting on today.

Compromise is the glue that holds our Government together, and this budget represents true compromise. The sacrifice we ask today is not more than anyone can bear.

For example, older Americansf will not pay more for the part B premium. But they will have to pay a higher deductible for doctors' bills.

Hospitals will contribute heavily to deficit reduction, but inner-city and rural hospitals that are at risk of financial failure will not be forced to close their doors.

It protects our Nation's work force and our children by resolving the child care legislation. In this bill, we have not forgotten that soon two-thirds of all new jobs will go to women.

We expand the earned income tax credit, which helps the working poor and keeps people off welfare. The EITC is important to the Sun Belt where residents are nearly twice as likely to receive the credit.

The wealthy—who can afford to pay more—will pay more through limits on itemized deductions, a phaseout of the personal exemption, a top rate of 31 percent, and luxury excise taxes.

This plan is good for our energy independence. Congress is taking steps to establish a national energy policy which we have not had in 10 years. The timing is critical given world events.

We have become so embroiled in this budget fight that the process has almost overtaken the substance. Now is the time to lay down our swords and join together for the good of the country. I urge my colleagues to support the bipartisan compromise.

Mr. PANETTA. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. DOWNEY].

(Mr. DOWNEY asked and was given permission to revise and extend his remarks.)

Mr. DOWNEY. Mr. Speaker, Joe Lewis once said about his opponent, Bill Conn, he could run, but he cannot hide, and neither can we. Unfortunately, we cannot even run, and we should not try.

It is time to pass this budget and to go home. There is more in this package for everyone to detest, and I have a couple of my favorites. One is the Pease plan which I personally think hurts my State, and the new jury-rigged personal exemption plan that creates a blister, or a boil, or a new bubble; however you want to characterize it, it is bad tax policy.

But notwithstanding the fact that I do not like those two provisions, I do like the fact that it makes us look serious in the eyes of the world as we attempt to come to grips with this budget deficit problem.

And it also has something for the children and the working parents of this country, because we finally deliver on the question of child care here. For 2 years we have struggled to put together a plan that people could live with, Democrats and Republicans, liberals and conservatives. We expand

the earned income tax credit $13 billion over 5 years. We have a plan here for benefits, grants to States that will actually go to the States. There will actually be more child care slots, better child care delivered.

We are saying with this budget plan and the provisions of child care here that it is better for you to work, you will be better off, your family will be better off, and at every step of the way you will earn more money. That is what the earned income tax credit does. That is what the grant programs do.

So, when people have asked you about the things they do not like, you can just take a moment and say yes, we have delivered some pain, but we also recognize our responsibilities, not only to the children of this country who will have less of a debt to pay as a result of this budget plan, but also to relieve some of the burdens and some of the concerns of their parents as they grow through a very fine and well-crafted child care provision.

I strongly urge my colleagues to support this budget package, and in particular the child care provisions.

Mr. FRENZEL. Mr. speaker, I yield such time as he may consume to the distinguished gentleman from Oklahoma, [Mr. EDWARDS], chairman of the Republican Policy Committee.

(Mr. EDWARDS of Oklahoma asked and was given permission to revise and extend his remarks.)

Mr. EDWARDS of Oklahoma. Mr. Speaker, I rise in very strong opposition to this tax increase, spending increase, and in the short-term deficit increase.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. DANNEMEYER].

(Mr. DANNEMEYER asked and was given permission to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, concern about the deficit is appropriate. I want to share with my colleagues what we are scheduled to increase the national debt by over the next 5 years:

In 1991, $362 billion; 1992, $375 billion; 1993, $346 billion; in 1994, $308 billion; and in 1995, $316 billion.

That works out, my friends, to $1.7 trillion increase in the national debt over the next 5 years. That is, if we do nothing tonight.

We are told that this package we are asked to approve will reduce that projected increase in the debt of $1.7 trillion to $1.2 trillion. If it would do that, it would make sense. But the reality is that this reconciliation package, which is supposed to reduce spending, actually increases it.

The former Speaker here just told us one of the things that he is proud to have in here is what? Child care spending, expansion of domestic spending. That is absolutely not what belongs in a deficit-reduction package, in my judgment, and certainly we should not be using it as a means of raising taxes on the American people.

What is the answer? If this Congress had the discipline to follow just limiting increases in spending annually to the rate of inflation in the 1980's, we would have a balanced budget today. In 1990, the spending was about $1.2 trillion. If we had limited increases in spending in the decade of the 1980's, the CPI total spending would be $903 billion.

In my humble opinion, what we should be doing is saying to the American people we are not undertaxed, we are spending too much. This information needs discipline and restraint spending in the future.

I ask for a no vote on this package.

□ 0520

Mr. PANETTA. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Speaker, it is morning in America, and I rise this morning in strong support of this package and in special tribute to my friend, the gentleman from California [Mr. PANETTA], with whom I came here almost 15 years ago.

I feel no embarrassment or shame in supporting this. I think this is a good time for the Congress, because we are addressing the most serious problem the country faces, and I commend President Bush, who has made enormous concessions on taxes and capital gains, and the minority leader, the gentleman from Illinois [Mr. MICHEL], and the gentleman from Minnesota [Mr. FRENZEL], all of those who have worked together, who have come together, at this point and this time in our country's history, when our country really needs us, when America cries out for leadership and aches for support and help and calls for us to do the right thing.

I support the Republicans and Democrats who have made this happen. I will vote for this package. I am proud to vote for it, because it is the right thing to do.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Iowa [Mr. LEACH].

(Mr. LEACH of Iowa asked and was given permission to revise and extend his remarks.)

Mr. LEACH of Iowa. Mr. Speaker, many figures apply to this bill. The challenge is to apply perspective.

Let me stress a couple of points. Members of my party might want to keep in mind, first, enforcement provisions are stronger and more consequential than a line-item veto.

Second, under a conservative American President, Ronald Reagan, Federal spending as a percentage of GNP rose a whopping 2 percent from 21 to 23. Under this bill, if a recession can be avoided, the prospect of reversing gears, reducing Federal spending as a percentage of GNP by 2 percent is quite real.

What could be more conservative than to attempt to force the size of Government as a percentage of gross national product down, to attempt to force Washington to live within its means?

Mr. Speaker, this Member is generally considered a moderate largely because of views held in the spectrum of social and foreign policy, but despite qualms, I voted for President Reagan's positions on major tax and spending issues, because I felt it important to chart a new course in the 1980's, because the alternatives were bleak, and because I did not want to Carterize my party's President.

As we stand on the lip of a recession, on the brink of a worldwide loss of confidence in our fiscal policy, as contrasted with a decade ago, with our foreign policy, it is time for Congress to stop fiddling and discipline itself. It is time to start leading and stop pandering.

The alternative is intra-party anarchy and extra-party fingerpointing all the way to a recession worldwide.

For the sake of the President and the Presidency, for the sake of the reputation of this body, for the sake of fairness and common sense, this deficit-reduction package deserves to be supported.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. GONZALEZ] for a brief colloquy.

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

It is for the purpose of a question here. The conference report requires the committees of jurisdiction over the Government-sponsored enterprises to report legislation by September 15. Is it the understanding and the intent of the conferees that the committees of jurisdiction are the Committee on Banking, the Committee on Agriculture, and the Committee on Education and Labor?

Mr. PANETTA. If the gentleman will yield, the gentleman is correct, that it is the understanding and the intent of the conferees that the jurisdiction that the committees now have over this issue is not changed by this legislation.

Mr. GONZALEZ. I thank the gentleman.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, this is not the time to get involved in a deep committee jurisdictional squabble, but when you talk in terms of debt management and interest costs, the Committee on Ways and Means has been involved and must be involved and will be involved in this jurisdictional question. The Committees on Agriculture, Education and Labor and Banking are primary committees of jurisdiction, but so is the Ways and Means. That question was settled when the Resolution Trust Corporation was referred to

us. Later on, I will have some remarks that I will put in the RECORD about the Government-sponsored enterprises—Fanny Mae, Freddie Mae, and Sallie Mae.

Mr. PANETTA. If the gentleman will yield, the gentleman from Texas is also correct, that the Committee on Ways and Means has jurisdiction over that area of GSE's.

Mr. Speaker, I yield 3½ minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, first of all, I would like to pay special tribute to my chairman, the gentleman from California [Mr. PANETTA], for an incredible job that he has done on the budget all year, and we are all proud of you, LEON, and the country owes you a great debt of gratitude.

I have been a member of this body now for 8 years. During that time I have firmly believed the biggest problem facing our great Nation is deficit reduction.

Ladies and gentlemen, I am convinced the package before us this evening is real deficit reduction. It has real enforcement provisions also, and that is equally important to this gentleman.

On the spending side, I hope we will take a look at exactly what we are talking about. On the spending side, there is at least $2 of spending reductions for every $1 of tax increases. There is $100 billion in entitlement cuts, real entitlement cuts, in agriculture, and in Medicare, and I do not believe the majority of this body wants to go a nickel further on Medicare or agriculture for that matter.

There are hard spending deductions in the Pentagon, real hard spending reductions in the Pentagon, and the minority leader has already pointed out the fact that based on the President's calculations, spending will drop from the current level of 22 percent of gross national product to less than 19 percent by 1995.

That is not a Democrat calculation. That is the President's calculation.

There are real spending limitations that are enforceable. Again, do not take this gentleman's word. Take the word of the gentleman from Illinois, the minority leader, on that point.

On the overall question of spending, I want to draw my colleagues' attention to some work that I had my staff do this afternoon. We hear a lot of people come down here and bemoan the fact that as an institution we are out of control on the spending side, and we hear people criticize all of this spending. I asked my staff today to go back and do a little research on the votes that were cast this year on spending measures. It is important for us to keep in mind that when you take interest payments off the table because we have to pay the interest payment on the national debt, and Medicare off the table, and retirement programs off the table, that is about $600 billion of the budget off the table.

The rest of spending is dealt with in our appropriation bills. Guess what, I looked over all the votes on appropriation bills, and fully two-thirds, two-thirds of this body voted for every appropriation bill passed by this body this year with the exception of the D.C. appropriation bill that passed today with a voice vote. And, yes, the minority voted overwhelmingly for all of those appropriation bills, too. Every one of them.

But think about it, at least two-thirds of us voted for all of the appropriation bills. Well, folks, tonight we have to decide whether we are going to pay those bills.

In the final analysis, we have one basic question to decide and to answer. Are we, as an institution, are we as leaders of this great country, willing to ask our constituents to forgo a little bit of their present so that our children and grandchildren might enjoy the future that we all want for them? That is the fundamental question. Are we willing to do what is right for this country?

I sincerely hope that the answer to that basic question is a resounding yes.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Pennsylvania [Mr. CLINGER].

(Mr. CLINGER asked and was given permission to revise and extend his remarks.)

Mr. CLINGER. Mr. Speaker, I rise in very strong support of the budget reconciliation act.

Title IX of H.R. 5835 reauthorizes the Airport Improvement Program. This provision passed the House earlier this summer in a slightly different form as H.R. 5170. The vote was 405 to 15. As ranking Republican on the Aviation Subcommittee, I have devoted tremendous time and energy overseeing the development of this very progressive and necessary legislation.

H.R. 5170 reauthorizes the airport construction program for 2 years. The bill also includes a major change in existing law that will allow airports, under carefully prescribed conditions, to assess a passenger facility charge. Both H.R. 5170 and the reconciliation bill permits airports to assess up to $3 charge on enplaning airline passengers. These funds represent a vital new source of financing for long-overdue airport construction projects such as runways, terminal buildings, aprons, and taxiways. These facilities are absolutely necessary if we hope to reduce congestion and delay in our national airways system.

In all fairness, if the aviation trust fund was operating as intended, we would have no need for passenger facility charges. Unfortunately, the trust fund is included in the unified budget, and as a result of Gramm-Rudman limitations, the unobligated balance is now greater than $7 billion.

I want to stress to all Members that the passenger facility charge is not Federal tax. It is a local tax that will be imposed by local airport authorities, and the revenues will remain at the airport. They will not flow through the U.S. Treasury.

The reconciliation bill also contains a provision that requires air carriers to phase out their noisy, stage two jet aircraft by the year 2000. While that phase out date is 10 years hence, it nevertheless compels air carriers to invest billions upon billions of dollars in new, quieter stage 3 aircraft, and in retrofitting their existing stage 2 aircraft with hush kits or new engines.

Mr. Speaker, title IX represents a rare nexus, enjoying the support of both air carriers and airports. I encourage Members to consider this provision as they weigh their support for the reconciliation bill.

Before closing, I want to acknowledge the hard work and skillful leaderhip of my friend and colleague, JIM OBERSTAR, chairman of the Aviation Subcommittee. Through his extraordinary efforts and patience, the Aviation Subcommittee has reported a number of landmark bills during the 101st Congress, bills that have addressed aircraft, aviation security, and airline mergers.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New Mexico [Mr. SCHIFF].

(Mr. SCHIFF asked and was given permission to revise and extend his remarks.)

Mr. SCHIFF. Mr. Speaker, I rise in reluctant support of the conference agreement.

Mr. FRENZEL. Mr. Speaker, I yield 3 minutes to the ever-recalcitrant gentleman from Ohio [Mr. KASICH], a member of the Committee on the Budget.

Mr. KASICH. Mr. Speaker, Members are sleeping around the Capitol, and I am afraid that the train is leaving the station, and it has the taxpayers' wallets right on it.

I will tell you why I say that. I appreciate the work that the chairman does and the gentleman from Minnesota [Mr. FRENZEL] and everybody in putting the package together. I know it is tough. but when we just tell the Members that under this package we are sanctioning an increase in domestic discretionary spending of 11.8 percent, $19 billion in budget authority.

□ 0530

That is what we are accepting as the base at which we are working.

Then we have what is called the baseline, this thing that no one seems to understand. What we do is we go from a summer baseline and we substitute a summit baseline, and that drives up our spending by an additional $14 billion over the next 4 years. So, what we do in the first year is we accept a 12-percent increase in discretionary spending, and then for the next 4 years we allow that cap to go up by more than $13 billion. They say this is a tough package? That makes tough choices?

Then what do we do? We do something we have never done in the 8 years I have been here. We have now accepted OMB's budget numbers. That has never happened before. Members know what the CBO budget numbers are. There are $474 billion in deficit reduction, not $490 billion

something in deficit reduction. We were denied the right to come to this House floor and offer a package that made $490 billion worth of deficit reductions because we did not make $500 billion, and they do not make it either. They do not make $490 billion. They only make $470 billion. And they use the excuse that they did not make $500 billion, to give Members a chance to offer a package without taxes. That is just not fair.

In addition to it, what do we get in the first year? We get $109 billion in additional spending, and we get $106 billion in additional taxes. Now, I am supposed to go home and tell something, that we are going to raise revenues by $106 billion, and sanction $109 billion in more spending, and they are going to come on this House floor and say we are saving money and making a tough choice? I maintain that it is very easy to raise taxes around here. The tough choices are to make the very tough cuts, to make the very tough cuts and to set the priorities.

I do respect what the gentleman from California [Mr. PANETTA] has tried to do in this package, what our administration has tried to do. I think they believe in this, and I understand why they believe in it, because they think they are moving the country in the right direction.

I just want to say to Members that the package that the gentleman from Michigan [Mr. PURSELL] tried to make, the Committee on Rules would have solved the big problem, using very tough discipline, without having to raid the pocketbooks of the American taxpayers.

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

(Mr. LEVIN of Michigan asked and was given permission to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, three quick points. It has been said here that the people in the income brackets that most Members of Congress are in would receive a tax cut. That is simply not true. It is not true. Do not say it. We include the HI phaseout of the exemptions and the deduction floor. That is not going to happen.

Second, there is talk about a bubble. It is too facile. What this does is to say this income goes up, the value of the exemption goes down. It would have been better to raise the rate from 31 to 32. It would have been easier, more equitable, but that was not possible. This was the only way to bring tax fairness.

Third, economic growth; there has been a lot of discussion there on your side of the aisle about economic growth. We cannot have economic growth in this country without deficit reduction. If we want to stimulate economic growth, vote for this deficit-reduction package. I urge that we vote for it tonight.

Mr. FRENZEL. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, in Coriolanus, Shakespeare said "In such business, action is eloquence." The time has come for action from this body. Republicans, Democrats, we are all Americans, and the people are waiting for Members to act. We have been lethargic. Here is an opportunity for Members to reduce our deficit. It is not perfect, as has been stated, but it is a compromise, and it is to reduce spending by over two-thirds. The revenue enhancements would be cut by about one-third.

It is something we can live with. We can change it in the future. It has adequate enforcement provisions in it, and what we are suffering under right now is a paralysis analysis. The people deserve much more. I would certainly ask that this House come together and pass this budget reconciliation. In such business, action is eloquence.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LEVINE].

(Mr. LEVINE of California asked and was given permission to revise and extend his remarks.)

Mr. LEVINE of California. Mr. Speaker, I rise in reluctant support of the agreement.

Our economy has entered into the early stages of a recession, it is thus critically important that Congress act to begin to put our economic house in order and put the brakes on our mounting budget deficit. It is now so late in the process that an imperfect agreement is better than no agreement at all.

This is not a perfect agreement. There is much in it that I would prefer not to be there. There are a number of things I would have preferred to see included which were left out.

Among those provisions I oppose are an increase in the gas tax. This tax increase will have a particularly negative impact on lower and middle-income people in California. This tax will be particularly regressive coming as it does at a time of record high gasoline prices.

While the cuts in Medicare have been significantly reduced, they could have been, and should have been, reduced further. Too many senior citizens live in our society at the edge of poverty. Too many of them are regularly faced with the stark choices of whether to pay their rent, heat their homes, or put food on the table. A society as wealthy as ours should not force the people who helped build our great Nation to make such choices. We need to do more for our poor elderly, not less.

The real tragedy of this situation is that it could have been avoided. Through the imposition of a windfall profits tax on oil companies we could have recouped the revenue needed to prevent cuts in Medicare. A surtax on those with incomes over $500,000 would have raised sufficient revenue to ease the burden on the elderly. Yet, because of opposition from some in the White House and the Senate such a surtax had to be removed from the bill. I hope that when Congress reconvenes next year that the matter of a surtax can be reopened, and used to ease the burden on the elderly, and our lower and middle-class citizens.

I also take issue with the so-called Pease provisions of the bill. Because of the way in which the phaseout of deductions is structured they will work a particular hardship on families and residents of large States like California. This provision should be eliminated or improved next year. At the very least its provisions which negatively impact families should be repealed.

Despite all of my objections to this legislation, it deserves approval for a number of reasons. First, the time has come to get on with the process of governing, cut the deficit, and put an end to the circus which has swirled around the budget debate. The American people have lost patience with this spectacle, it has demeaned our country in the eyes of the world, and has tarnished the reputation of this institution.

Second, this legislation does improve the progressivity of the Tax Code. It eliminates the bubble. This bubble enables our wealthiest taxpayers to pay taxes at a lower rate than middle-income taxpayers. Once again, I would have preferred to see higher tax rates for those with incomes over $250,000 but at least this legislation is an important step in the right direction.

Third, this legislation will make significant reductions in our deficit. There is no question that they will not reduce the deficit as much as its drafters claim, but it will make significant reductions in the Federal deficit.

Our economy has already entered into the first recession of the 1990's. This recession has the potential to be dramatically different from any in our history. This is the first time we have entered into a recession with such a massive Federal deficit—some estimate in excess of $400 billion if the costs of the savings and loan bailout and the Persian Gulf operation are included and the Social Security surplus is removed. In fact, even with this bill our country will have to borrow more in the next 5 years than it did from 1975 to 1985, and nearly twice what it borrowed from 1775 to 1980.

Unless Congress acts now to pass this legislation and cut the deficit, and the Federal Reserve Board acts to cut interest rates, we may face a recession even worse than the recession of the early 1980's. Congress must not do anything to contribute to a worsening of this economic downturn.

The time to debate this issue has passed. Now is the time to act. I urge my colleagues to pass this legislation despite its shortcomings. We owe it to our constituents and the Nation.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma [Mr. SYNAR].

(Mr. SYNAR asked and was given permission to revise and extend his remarks.)

Mr. SYNAR. Mr. Speaker, I rise in support of the resolution.

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

(Mr. PICKLE asked and was given permission to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, we must pass this bill tonight. We must do it for the American people.

Let me make this sober observation. As we take this big step, we ought to admit to ourselves we have not totally or immediately solved our problem. This battle is just beginning. We have not yet learned how best to control our spending, and we have not come to grip with our huge entitlement programs which constitutes two-thirds of our spending. That is the big task ahead.

So, this battle is just now starting. Next year, and the next session, and the next—we must find a better answer to those problems on spending and entitlements. But tonight, this bill must be passed to tell the American people we have done the responsible thing and that we can govern.

Mr. Speaker, the hour is late and the process we have gone through to reach this point has been long and difficult. But tonight we face the truest test of our convictions. Tonight, Mr. Speaker, we either fish or cut bait—we either act affirmatively or we admit defeat.

Twenty-one months ago, this Congress convened under a new administration whose Chief Executive observed that "a new breeze is blowing, and the old bipartisanship must be made new again." In his Inaugural Address to the Nation, President George Bush observed that "the American people await action. They didn't send us here to bicker. They ask us to rise above the merely partisan."

Well, Mr. Speaker, the breeze has been blowing pretty hard over the past few weeks, and it hasn't been new and fresh. We have once again challenged each other's motives instead of each other's ideas. But the President was right. The American people await action, Mr. Speaker. In fact, they're tired of waiting. I think they demand action.

The budget reconciliation bill before us tonight is far from perfect. It contains many provisions that I don't like, and it fails to address many issues I think should be addressed. I feel certain that each and every Member of this House, on both sides of the aisle, can say the same thing. Any Member who is looking for a reason to vote against this bill will certainly find many of them.

But tonight, for the first time in many years, we have an opportunity to do something meaningful about our Nation's budget deficit and national debt. Along with the President, we have the opportunity to make a $500 billion reduction in the deficit over 5 years. For all its imperfections, this measure before us tonight will accomplish that purpose.

I would like to call Members' attention to one specific aspect of this legislation relating to government sponsored enterprises, or GSE's. In this session of Congress, we were asked to raise $50 billion for the rescue of the savings and loans. When the 102d Congress convenes in January, provisions in this bill will ensure that the Congress will better understand the financial exposure of the Federal Government as a result of GSE's, which have implied Federal guarantees of over $800 billion.

The bill requires the Treasury and the Congressional Budget Office to each conduct a study of the financial exposure of the Federal Government posed by GSE's and report to Congress by April 30, 1991. Further, the bill requires action by the committees of jurisdiction in the House to minimize the possibility that the GSE's might require financial assistance from the Federal Government. In addition, the President's annual budget submission to Congress will also provide information about GSE's.

While I am pleased that the conference has included these provisions in the bill, I still believe that the Congress needs to go further. In conducting this study, it is important that the Treasury be able to provide the Congress and the American public with a better understanding of how credit-worthy these GSE's are. Such an understanding can only be obtained if Treasury has the ability to share certain information with outside market analysts and the Federal agencies which supervise the GSE's. Treasury asked the Congress to allow sharing of the information, but this legislation does not include that change. I believe that the integrity of the study would have been advanced if Treasury could use outside consultants. Further, an analysis by parties outside of Government would insulate the GSE's from allegations that the findings are political. But, as hard as it is for me to believe, this appears to be an idea before its time. So, we will need to look at this again very closely in the next Congress.

Undeniably, GSE's provide very important public benefits. With the capital provided by these entities, the public has access to housing, education, and food that otherwise might be denied. However, it is my judgment that the public will not be impressed with arguments that GSE's cannot meet their mission without acting in a financially risky manner. I believe that the financial soundness of the GSE's will serve to ensure that these entities will be preserved in order to continue their public good. While I truly believe that good government mandates action beyond what is in this legislation, I am pleased with the efforts by the leaders in the House to address this issue. I consider these requirements regarding GSE's to be very important and, with congressional support, they will have far-reaching consequences for the American public.

In the same spirit, I believe that eliminating our deficit requires us to take action beyond what is in this legislation. But, in my judgment, this bill is a clear declaration to the American people of our firm intention to make meaningful reductions in spending as well as raise necessary revenue in order to achieve our goal.

One of this bill's declarations is that Congress intends that the burden of deficit reduction will be borne in a fair and equitable manner among taxpayers. In order to accomplish that goal and also to ensure the fairness of the tax system, the plan contains a number of provisions aimed at allocating a larger share of deficit reduction to this Nation's wealthiest taxpayers. By adopting these measures, we are ensuring those taxpayers most able to contribute in our efforts to reduce the Federal budget deficit will do so.

This bill does include an increase in the gasoline excise tax, which I believe should not have been included. However, it is a less severe increase than either the one proposed by the budget summit agreement or the bill passed by the Senate.

Just as important, the bill reduces the Medicar Program by only $43 billion, instead of the $60 billion cut originally proposed in the budget summit agreement. This bill protects Medicare beneficiaries by keeping monthly premiums low and limiting the increase in the deductible.

I am convinced that the only way we can make a real dent in the budget deficit is to take bold steps. It won't be easy, and it will require us all to make some tough decisions, but this Nation faces no more important problem than reducing the deficit.

The breeze is blowing tonight, Mr. Speaker, and it is up to us to make sure that it is a new breeze of progress. Tonight we have a chance to put aside the bickering and rise above the partisan rhetoric. I strongly urge my colleagues to join together in supporting this budget reconciliation bill.

But, Mr. Speaker, as we take this first hard step toward deficit reduction, we must also remind ourselves this is just a first step and very important step. But we haven't solved our problem lately or immediately. We must find a better way to control our spending, and to come to grip with our huge entitlement programs. That is our big task ahead of us. Tonight, however, we must pass this bill, and be resolved to do better in the years ahead.

Mr. FRENZEL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, it is a little difficult at times when we are presented 1,600 pages on the floor, to find out what is in the bill. However, it does appear in at least a quick cursory look at the bill that some of the special interests out in Gucci Gulch did, in fact, manage to get their provisions in this bill.

Going through the bill we found special tax treatment is given to taxicabs, insurance companies doing business abroad, manufacturers of cigars, small winery, small brewery, ethanol producer, general aviation aircraft, crop duster, estates, and trusts.

So, it is clear that despite all the talk about national interests, there is also special interests in this bill. I think it should be clear to the Members that if we vote for this bill, we are voting not only for deficit reduction, we are also voting to reducing taxes to some very important special interests, at least important to the people who drafted the bill.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi [Mr. MONTGOMERY].

(Mr. MONTGOMERY asked and was given permission to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I rise in support of this conference report.

I do not agree with all provisions contained in the agreement; however, on balance I believe it is the best we can do under the circumstances. We must do something to put the country back on a sound financial footing. The budget deficit must be reduced and the budget eventually balanced. This agreement is a step in the right direction.

Many committees were mandated to reduce direct spending. The Committee on Veterans'

Affairs was told to reduce spending by $620 million during the current fisal year and about $3.35 billion during the next 5 years.

In past years, veterans have been asked to help our Nation reduce the budget deficit, and they have responded favorably on every occasion. I believe they are willing to do their fair share again.

The conference agreement contains savings in veterans benefits and services of $621 million during the current fiscal year and $3.66 billion during the next 5 years. This brings the House and Senate Veterans' Affairs Committees in full compliance with the instructions contained in the budget resolution.

The committee faced the dilemma of weighing our budget directives against our responsibility to millions of veterans who are depending on us to preserve and protect their benefits. I believe the conference agreement meets both objectives effectively, responsibly and fairly.

We carefully studied every VA program to determine where these reductions or revenue enhancements might be implemented and cause the least strain on the VA and on veterans who use its services.

In my opinion, thes savings can be absorbed without undue hardship on any one VA program or on veterans who receive benefits and use VA services. Most changes in current law would be prospective and, therefore, would protect current beneficiaries. It is an agreement which I believe veterans generally will understand and support.

A $621 million cut in entitlements and increased revenues in the current fiscal year 1991 budget is a substantial amount; however, it is much less than the alternative—$1.2 billion under Gramm-Rudman sequestration. Our veterans' benefits system simpy could not bear such an enormous blow to its budget.

I support the savings proposals before us, not because they cut veterans' programs. I support them because they will help avert a national disaster. That is exactly what we face unless we get control of the budget deficit. We can no longer continue down the same path of fiscal irresponsibility.

The Committee on Veterans' Affairs has complied with the reconciliation instructions contained in the budget resolution adopted by the House and Senate. I believe we have done our best to come up with a proposal that will not unduly affect our Nation's veterans.

I want to thank the gentleman from Arizona, BOB STUMP, for his cooperation and support in helping us reach the targets established by the House and Senate. I also want to thank all of our subcommittee chairmen, DOUG APPLEGATE, LANE EVANS, TIM PENNEY, and HARLEY STAGGERS, for the leadership they provided in putting the package together. I'm also grateful to the ranking minority members of the subcommittees, JOHN PAUL HAMMERSCHMIDT, BOB MCEWEN, CHRIS SMITH of New Jersey, and DAN BURTON, for their support. Every member of the committee was willing to work toward a common goal.

It has not been a pleasant task but a necessary one, and I want to thank the very able Chairman of the Budget Committee, LEON PANETTA, and its distinguished ranking minority member, BILL FRENZEL, for their understanding and support. Our committee worked with the Budget Committee in a very positive and constructive way. I am grateful for the work of every single member who has been involved in solving the complex problem confronting the President and the Congress on this issue.

I urge the adoption of the conference report.

Mr. PANETTA. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN].

(Mr. GLICKMAN asked and was given permission to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, I am going to vote for this package, I think it was Benjamin Disraeli, the British Prime Minister, who said, "It is not enough that we do what is right; sometimes we have to do what is required." I suspect in this case that is the axiom we will have to use. What is required is that we vote for the bill; the country needs it. But this agreement does hurt my part of the country a little bit. We have negotiated some issues regarding the luxury tax on small airplanes with the chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI]. I think that that problem is substantially taken care of. However, agriculture takes big hit in this reconciliation package.

Let's be honest about it. Probably the biggest single hit of all in the domestic spending area is in agriculture. We cut $13.5 billion, hard dollars, out of the farm program over 5 years and we change agriculture programs fundamentally in this proposal.

Now, unfortunately the original budget summit came up with these very big cuts that we are stuck with right now, numbers that were agreed to by the administration and the bipartisan leadership from the House and Senate. We from agricultural country are stuck with the fact that it does seem we are taking disproportionately big hits in our part of the country, because of this high-level agreement. We hope we can survive the cuts. We have developed proposals that soften these cuts. We hope these proposals, particularly the triple base proposal, which gives farmers flexibility and reduced payments on the acreage that they have historically gotten payments on, will give farmers increased income from the markeplace. That is at least what we are counting on. It may not work out that well. If it does not, we will come back to try to fix this program.

Rural America is under great stress right now. These program changes will produce some problems out there in rural America, but we are going to try to work with our farmers to make sure in fact that they can cope with these changes; but above all, our farmers, our rural Americans and everybody in this country wants to see a strong America, and a strong America is an America that deals credibly with its fiscal problems. This agreement is a credible first step toward fiscal responsibility.

The gentleman from California [Mr. PANETTA] and the gentleman from Minnesota [Mr. FRENZEL] have led us in this effort, reinforced the effort over and over again, and have convinced me that there is no other choice, notwithstanding my concerns about what this might do to rural America.

Mr. Speaker, there is no other realistic choice for all of America than to pass this budget.

Mr. FRENZEL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York [Mr. HOUGHTON], a member of the Committee on the Budget.

Mr. HOUGHTON. Mr. Speaker, I strongly support this budget package. I want to tell you why, because there is absolutely no other option.

What do we have? If this goes down, we do one of three things. We try to pass another budget resolution. Is this going to be possible? Do we have time? For my money, every time we put another budget resolution on the table, it gets worse.

No. 2, if we do not do that, we have a continuing resolution. Do we want to go back to the people and say, "We failed. We can't govern," just before elections? I think that is a lousy option.

The last one, of course, is sequester, and who wants to go back and say that 30 to 40 percent of many of our discretionary programs are out. It does not make any sense at all.

When you are in business and when times are tough, you say to yourself, "I can't possibly increase my prices," in this case revenues, "because my customers are hurting. I can't possibly cut many of the programs that are important to the long-term health of the business," but you can, because you must. We must tonight, and I am for this proposition.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. BUNNING].

(Mr. BUNNING asked and was given permission to revise and extend his remarks.)

Mr. BUNNING. Mr. Speaker, I rise in opposition to the budget resolution.

Mr. Speaker, 3 weeks ago, this body rejected, by a sizable margin, the budget summit agreement because it raised too many taxes, it failed to provide sufficient growth incentives to get out stalled economy moving, and because it failed to adequately restrain spending.

Now, 3 weeks later, we are considering a bill which instead of getting better has actually gotten worse.

Where is the growth? The only growth in here is Government spending. There is not a single economic growth incentive in this package.

Where are the budget cuts? This package cuts defense spending but it doesn't even pretend to cut domestic spending. In fact, it virtually guarantees increased domestic spending.

Where is the reform? The past 3 weeks are proof enough that the budget process is broken. But this bill does nothing to fix it. It provides for no permanent restraints on spending growth. It provides no provisions to

improve the process. It does not include line item veto or enhanced recision authority or anything that holds out even a hint or promise for budgetary restraint in the future.

No, this bill is nothing but taxes. Even more taxes than the budget summit called for. We are talking somewhere in the neighborhood of $175 billion in taxes over the next 5 years.

And putting that kind of tax burden on an economy that is already on the slippery slope of recession, is foolhardy.

Nine years ago, we were on the edge of recession. And President Reagan proposed a dramatic cut in taxes and major cuts in spending. Democrats scoffed and called it voodoo economics.

But President Reagan's economic policy of tax cuts and budget cuts set off the longest sustained period of economic growth in the Nation's history.

Here we are in a similar position—economic growth has stalled. And what is the Democrat solution? To raise taxes and not cut spending. That is crazy, Mr. Speaker. It is not voodoo economics. It is doo-doo economics.

If anyone thinks that raising taxes is going to reduce the deficit, they have not been reading their history of the past 30 for 40 years. Every time Congress has raised taxes 1 dollar, it has increased spending by $1.58.

That is not a recipe for deficit reduction. It is a sure fire recipe for larger Government, larger deficits, and a sinking economy.

I urge my colleagues to reject this nonsense.

Mr. FRENZEL. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Florida [Mr. JAMES].

Mr. JAMES. Mr. Speaker, you know, I have been here nearly 2 years now, a couple months short of it, and I have learned to respect the intellect, the skill, and the energies of all of you.

Having said that, I know that you will all recognize that these figures that appear in the handout by the Democratic Party that we have $327 billion in deficit in 1991; $317 billion in 1992; $276 billion in 1993; $102 billion in 1994, and $83 billion in 1995; my point being, that is taxation. It is just in a different form. You are borrowing money instead of levying tax immediately. It is a taxation on the future and on the present, because you are creating a debt on the present taxpayers.

A case in point: If you had not had deficit spending to the extent we have had, you would have $100 billion less in interest on an annual basis. So this is taxation. This deficit is clearly taxation. You know that, so admit it. It is not deficit reduction.

I am ashamed and surprised that the Democrats have abandoned their insistence that you not have regressive taxes. This whole tax program is loaded with regressive taxes, as well as a revisiting of catastrophic taxation.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. MAZZOLI].

(Mr. MAZZOLI asked and was given permission to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I rise in behalf of the conference report. It is not the most beautiful document in the world, but it is gorgeous compared to our not doing anything.

Mr. PANETTA. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. KENNELLY].

(Mrs. KENNELLY asked and was given permission to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, I am for this because we have to be for it.

Mr. Speaker, I rise in support of the conference report on budget reconciliation.

The road here has been a long and difficult and often maddening one. We have all been so wrapped up in the effort to get to this point so we can declare victory on deficit reduction that it would be easy to forget what the negotiations are about.

The bottom line of this bill is deficit reduction. This deficit reduction is real. This deficit reduction will hurt, and this deficit reduction requires tough choices and asks sacrifices of all men and women of this Nation.

By now we have all realized that there is no attractive or easy revenue increase. But a revenue increase is necessary, as spending cuts are necessary. And all of us who worry about the future of the Nation and the American people the way I do have made the difficult decision to support deficit reduction. We need to set the Nation on a course of fiscal responsibility.

I do not like this bill. My constituents do not like it. But we have to do the right thing—support the budget reconciliation conference report.

Mr. PANETTA. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I certainly want to commend the gentleman from California for the work he has done on this issue in bringing us this close to something that is so important for the American public.

You are going to hear a lot of statistics tonight. I would like you to listen to some statistics that are more relevant than most anything else.

During the decade of the 1980's, from census to census, the United States grew by 25 million people, fully 10 percent of the population.

You have heard people on this floor tonight, especially those who are opposed to this bill, tell you that this bill increases spending. Well, there is going to be increased spending, folks. There are more Americans each year than ever before. We are not going to leave them in the dust. There are many more Americans, and the future of our country grows each year. That is part of the problem.

And the hidden statistics that no one will talk about, as we spend more and more, and do not get into the mode of deficit reduction, the cost of bearing the interest payment each year, as they go up, rob the American public of infinitely more dollars than does some of the small increases in taxes in this bill. Most of you do not want to admit it and do not want to see it, but it is true. The hidden cost of the interest payments in this country are what is robbing us of our economic future.

Mr. Speaker, this bill is fair. It raises more tax money again and on a progressive basis from those who can afford to pay and who have least paid during the decade of the eighties.

Think about the future of this country. Think about the young people who are coming into this world who must be removed from having that burden on their backs at an early age of paying the debt burden caused by the spending that we have put upon them. It is our problem to deal with now. This bill deals with it well.

Mr. Speaker, I urge you all to support this for the growth of this country and for the future generations of this country.

Mr. FRENZEL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Arkansas [Mr. HAMMERSCHMIDT], the vice chairman of the Committee on Public Works and Transportation.

(Mr. HAMMERSCHMIDT asked and was given permission to revise and extend his remarks.)

Mr. HAMMERSCHMIDT. Mr. Speaker, I would like to address several provisions of the bill that fall within the jurisdiction of the Public Works and Transportation Committee.

The conference agreement requires the Environmental Protection Agency to collect fees in the amount of $180 million over 5 years, limiting the amount that can be collected from section 402 permits under the Clean Water Act to $10 million per year. I am very concerned about how this will be implemented. The fact is that we have no idea how EPA will carry out the mandate to collect fees in the clean water program or in any other program. We don't know who will be affected or how much any permit applicant will have to pay. I have no doubt that we will need to revisit this issue in the future.

Unfortunately, we find ourselves in these reconciliation bills being required to impose user fees, without having a detailed plan of how and on whom the fees would be imposed. Before we go down this road again of imposing user fees, we should have a clear picture of the affect the fees will have.

I was pleased that the conferees did not agree to any Corps of Engineers recreation user fees, which I was strongly opposed to. This proposal was not well thought out, was lacking in specific detail as to how it would be applied, and could have been very inequitable in its application.

The conference agreement unfortunately does not contain provisions recommended by the Committee on Public Works and Transportation which would have permitted the expenditure of the portion of any increased motor fuel tax or aviation tax going into the highway or aviation trust fund. While the committee opposed the use of any portion of these taxes for deficit reduction, our proposal recognized that some of the tax might be used for that purpose. All we proposed was to

spend the portion designated for the trust funds—that is the portion not intended for deficit reduction.

The conference report does, however, contain the amendment which I authored along with the gentleman from California [Mr. MINETA], stating the sense of Congress that motor fuel excise taxes that are deposited in the highway trust fund should be available for surface transportation programs and that the budget resolutions for fiscal years 1991-95 should accommodate spending for the new tax receipts in the trust fund. The provision also reaffirms the user fee principle that all motor fuel taxes should be deposited in the trust fund.

It is my understanding that the conference report also contains a 4-year extension of the Superfund taxes and a 3-year extension of the Superfund Program. This should not, however, be interpreted to indicate that Congress will not review, or consider changes to, the Superfund Program during this period. I am confident the Public Works and Transportation Committee will be conducting vigorous oversight of the program during this period to ensure that any problems in the program can be addressed.

One of the significant portions of the bill is the part that deals with aviation. Although it has not received the attention of some of the other titles, the changes made by the aviation portion will have a tremendous impact on air travelers in this country.

For the first time in almost two decades, airports will have the option of assessing a passenger facility charge [PFC]. This charge is to be used to increase airport capacity which will make room for new airline competition and should ultimately lead to lower airline passenger fares.

This bill also includes a landmark noise provision. This provision calls for the elimination of the noisy stage 2 aircraft by 1999. It allows a small portion of an airline's fleet to remain stage 2 for a few years beyond 1999 under carefully defined circumstances. To protect airlines who must convert to quiet stage 3 aircraft sooner than they might have wished, the bill gives their operations with quiet stage 3 aircraft some protection against burdensome local restrictions.

It is important to note that this legislation will not prevent local airports from banning noisy stage 2 aircraft as long as they analyze the need for the restriction and wait 180 days before it goes into effect. Likewise, the bill permits airports to impose restrictions on flights of stage 3 aircraft as long as the Secretary of Transportation approves the restriction.

The aviation portion of this bill also has an element that should help small communities and rural areas. That is the provision that revises the small community essential air service program. As revised, this provision ensures that all communities now receiving essential air service [EAS] will continue to do so. Moreover, it authorizes funding levels beginning in fiscal year 1992 that should be sufficient to support the EAS Program at the service levels Congress envisioned when it last reauthorized the program in 1987. These funding levels are achieved by tapping the aviation trust fund and using contract authority.

I would like to thank my fellow conferees on the aviation portion, Chairman ANDERSON and Subcommittee Chairman OBERSTAR, for their hard work. I would also like to recognize the ranking subcommittee member BILL CLINGER who, though not a conferee, played a key role in the process and was in all the important meetings.

Tribute should also be paid to Secretary of Transportation Sam Skinner whose persistence and hard work were invaluable in bringing this aviation bill together. A lot of credit should also go to his assistants Galen Reser, Bert Randall, and the ever-present Todd Hauptli who were always very helpful.

In short, the aviation portion of this bill will expand capacity, improve service and safety, and benefit airlines, airports, passengers, and airport neighbors. I am pleased that it is included in this reconciliation bill.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Washington [Mr. CHANDLER].

(Mr. CHANDLER asked and was given permission to revise and extend his remarks.)

Mr. CHANDLER. Mr. Speaker, I rise this morning in strong support of this resolution.

I believe that the deficit is most assuredly a problem. It is a cancer that eats away at the health of our Nation. It adds daily to the huge debt that is already built up. It threatens to undermine our economy in the near term and it piles up a debt on our children in the long term.

Now, this morning we have two choices. One is economic and the other is political. The economic choice requires a yes vote, a yes vote to say no, it is not perfect; no, we do not like it; no, it is not pretty; yes, it is a compromise, but it is what we have and it is what we can pass, or it is what we can defeat. A yes vote is the economic vote.

The political vote is a no vote. We have all had the phone calls from the people who do not want to pay any higher taxes, even though this package is 30 percent taxes and 70 percent spending reductions. The political vote is no because you have heard the people who do not want to see programs cut.

Now, there is a myth out there in this land that somehow we can have it both ways, that you can reduce deficits or ignore them and not raise taxes, not cut spending, not taxes, no spending, no problem. That is a myth, and it is going to kill the economy of this country.

Now, if you decide to vote no tonight, you can go back out there and campaign in the week we have left before the election and look those voters right in the eye and say, "I saved your program and I voted against those taxes," but I want you to do one thing before you go out and give that speech, looking those voters in the eye. I want you to go home and look your kids in the eye or your grandkids.

You say, "I took the easy vote. I took the no vote." It is popular politically, but you paid for it.

Mr. Speaker, I urge you to vote for this package.

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Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. COX].

(Mr. COX asked and was given permission to revise and extend his remarks.)

Mr. COX. I thank the gentleman for yielding.

Mr. Speaker, the overriding objective at 10 minutes to 6:00 in the morning is to vote on a package that no one has yet had the opportunity to read. It is in a large, oversized corrugated box. I have been given the opportunity to walk around it, gaze upon it from several angles, certainly not to read its well over 1,500 pages.

We are judging not just a book but an entire set of encyclopedias by its cover. What the cover is is tough spending cuts and tough tax increases. From everything I have been able to glean, including questioning our own leadership and representatives from the White House, that is a fake.

The spending cuts are a fake. The reconciliation bill on which we are shortly going to vote contains build-in spending increases, not spending cuts. The savings are the same kind of savings that Lucy Ricardo got from going to another sale.

It is putting on five coats and taking 1 off. That is not getting undressed.

Specifically, the new spending built into the baseline in this reconciliation bill would increase domestic discretionary spending by $165 billion. It would increase entitlement spending by $569 billion.

Three-quarters of a trillion dollars of new spending over the period of this plan, the largest spending increase in any 5-year period in American history.

As Edmund Burke said, "the only thing necessary for the triumph of evil is for good men to do nothing."

Tonight the vast majority of Republicans will do something; we are going to stand up and vote "no" on this package. We are going to represent the vast majority of the American people who said, "We are mad as hell and we are not going to take it anymore."

Mr. PANETTA. Mr. Speaker, I just suggest to the gentleman that that is doing nothing.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York [Mrs. LOWEY].

(Mrs. LOWEY of New York asked and was given permission to revise and extend her remarks.)

Mr. LOWEY of New York. Mr. Speaker, I rise in opposition to subtitle (d) aviation noise policy.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MILLER].

(Mr. MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, I rise in support of this budget reconciliation.

I do not share the conventional wisdom—that the debate over this budget was an example of the failure of the Congress or of democratic government.

It was not neat. It was not pretty. But it was one of the great successes of the past decade.

This was a fundamental debate over the issue of economic equity in America—about fairness, about progressivity, about financial burdensharing.

This was a debate about how we allocate the responsibility for reactivating and rejuvenating the American economy and the American society.

There are many Members of this House who deserve enormous credit for reformulating this budget plan, and for making it into a progressive statement of concern and support for tens of millions of middle-American families. No one deserves more credit than the chairman of the Committee on Ways and Means, and I want to salute Chairman ROSTENKOWSKI for his enormous efforts and achievements in this historic bill.

The President and the summit presented us with a choice: Pay for the excesses of the 1980's by burdening the middle-income family that got nothing from the trickle-down promises of Reaganomics.

That summit agreement was nothing more than the continuation of the inequities of the past decades.

It ignored the 37 million Americans who lack health insurance and raised the cost of health care for seniors.

It ignored the deterioration of living standards and real wages of the working families in America.

It sent the bill for Reagan's folly to the middle class.

And we said "no."

No to inequity. No to privilege. No to trickle down. No to regressivity.

That summit plan was rejected. It was rejected by the American people who heard the President's call, read the plan, and let their elected representatives know that they wanted no part of another decade of Reaganomics, another decade of defending privilege, another decade of weighing down the average American family.

The budget we will pass tonight represents a basic change in direction.

This budget puts and end to the tax holiday of the rich. It tells them it time to share the burden of rebuilding America.

Is this a perfect budget? No.

Does this budget remedy all the inequities of the last decade? No.

It could do more, especially if the President had not spent much of the last 2 months holding out for a capital gains tax for the richest 5 percent of Americans, and then fighting a surtax on the 65,000 Americans who earn a million dollars a year.

It should do more to bring the $290 billion military budget into conformity with military and political realities around the world.

Old adversaries are remaking their societies, massive arms control negotiations are going into effect: And yet the Pentagon, it's businesses as usual.

This budget has no peace dividend; it makes no recommitment of resources to improving education, expanding health care, upgrading housing, or rebuilding our transportation systems.

It makes cuts in health care at a time when we have millions of children who are not receiving immunizations, health screenings, or basic nutrition.

Lastly, let me say to those who decry the debate we have endured:

The test of any system of government is not the order and conformity with which it arrives at difficult decisions—and changing the fiscal direction of this Nation is a very difficult task.

If orderliness were the test, the Soviet Union's disastrous 5-year plans, adopted without dissent, were models of economic strategy. Mao Zedong's Great Leap Forward was a brainstorm.

Democracy isn't supposed to be polite. Sometimes passions are loosed when issues like fairness and justice are challenged. If we'd had a few more passionate debates during the Reagan years instead of too often acting like legislative zombies, there would be less need for S&L bailouts, massive new taxes, and health care sacrifices by seniors now.

Let me address some of the particular achievements in this package.

I support the child care and earned income tax provisions included in the Omnibus Budget Reconciliation Act of 1990. After a long and hard-fought battle, Mr. Speaker, I am pleased that the legislation under consideration today will, for the first time, give States the authority, flexibility, and financial assistance to improve and expand child care opportunities for the Nation's working families. I want to thank my colleagues from the Committee on Education and Labor and the Committee on Ways and Means for their leadership in crafting this agreement, and particularly Chairman ROSTENKOWSKI and Acting Chairman DOWNEY who have delivered very substantial sums for building a better child care system in this country.

While this bill does not go as far as I had hoped in ensuring adequate protection for children and in maximizing quality, it represents a first step toward a national child care policy.

CHILD CARE NEED BURGEONS IN THIS DECADE

In 1984, the Select Committee on Children, Youth, and Families, which I chair, brought renewed attention to child care through a year-long investigation. At the end of this extensive review, the committee concluded in a unanimous report, "Families and Child Care: Improving the Options," that the need for child care far outweighed the supply of safe and reliable care, and that the Federal Government had a significant role, in partnership with States and localities and the private sector, in responding to this growing domestic need.

In my own State of California, child care experts estimate that there is at least a 500,000 shortfall in licensed child care, with the worst shortages occurring for infants and young school children. The recent child care report from the National Academy of Sciences found, from a survey of the child care market in three low-income urban areas, that little center-based care was available for infants and no excess capacity of infant care in family day care homes.

The result is haphazard and tumultuous arrangements for families, and too often unsafe and even dangerous environments for children.

In its 1984 review, the committee also recognized the keen and enduring importance of attending to children's developmental and safety needs and strongly recommended that future legislation address the qualify of child care, especially in the areas of training and compensation of child care workers, through model health and safety standards, enforcement, and parental involvement. We suggested offering guidance to States to upgrade the quality of existing programs, and provide resources to do so. I continue to believe that this must be an essential element of any national policy.

I am especially pleased, Mr. Speaker, that in the final hours of negotiation between House Ways and Means and Senate Finance conferees, agreement was reached to establish a $50 million incentive grant program for States to enhance the quality of their child care programs, beef up enforcement, and train child care providers. I couldn't be more pleased that half of these funds must be used by States for training.

Mr. Speaker, I am pleased to support the resources made available for training under the incentive grant program. After a decade of research, there is a very strong consensus about training. When adequately trained, well-compensated, and consistent caregivers are present, opportunities for positive, stimulating, and nurturing child care experiences are greatest. Child care that incorporates enriching and comprehensive early childhood development components can have long-lasting and significant effects on a child's academic and social behavior and achievement.

Yet, as the use of child care has soared in the past decade, staff turnover has nearly tripled. And child care workers—while better educated than the average worker—have watched their salaries fall by more than 20 percent, to an average hourly wage of $5.35.

The first comprehensive profile in a decade of the relationship between training and compensation of child care staff and the quality of child care in America, the National Child Care Staffing Study [NCCSS] examined the quality of care in 227 child care centers in five metropolitan areas—Atlanta, Boston, Detroit, Phoenix, and Seattle—and concluded that the education of child care teachers and the arrangement of their work environment are key to the quality of services children receive. Children attending lower quality child care centers and centers with more teacher turnover are less competent in language and social development. Most critical is the NCCSS finding that child care providers who had 15 hours or more of current in-service training engaged in more appropriate caregiving, and that work experience alone was not sufficient to ensure quality, even for experienced providers.

Despite the evidence, States don't provide or require the training that results in healthier children. According to the National Academy of Sciences Panel on Child Care: 23 States do not require preservice training for center-based teachers; 32 States don't even require first-aid training for center-based staff; and 34 States, including my own State of California, do not require any preservice training for family day care providers.

We have hundreds of examples of how good child care can reap enormous benefits

for children and their families. We should be building policy based on those examples. But because policies which fail to protect children persist and resources for child care have been scarce, there are still children in the current child care system who are at risk. Countless press reports include cases of neglect and accidental injury in family day care homes that were unregulated, unsafe, overcrowded, and inadequately supervised by untrained or underage providers.

Tragically, because of the insufficiency of quality care in so many regions of this country, some families have no choice. In 1988, after the State of Illinois closed down an unlicensed family care home in Waukegan where 47 children were found spending their days in a small Cape Cod-style home, parents protested because it was the only child care alternative that they could afford.

I am disappointed, Mr. Speaker, that provisions were dropped form the House-passed bill to expand Head Start to a full-day, full-year program to meet the needs of low-income working families, and chapter I expansions to heighten critical school involvement in the provision of early childhood education, as well as before and after-school child care for school-age children.

AN ENTITLEMENT APPROACH GUARANTEES FUNDS

I am supporting the child care and development block grant included in this reconciliation package. But, I call to my colleagues' attention the vagaries of an annual appropriations process. The fiscal year 1991 Labor-HHS-Education appropriations bill, recently passed by the House and Senate and sent to the President, includes $750 million for the block grant in fiscal year 1991. The problem is, the money is not obligated until September 7, 1991, virtually assuring no child care block grant programs will begin this year. And given the current budget crisis, there is no guarantee that any money will be available next year.

States cannot, and will not, undertake expansion of their current inadequate programs without greater assurances of ongoing Federal child care funding in the future. And so this bill could be an empty promise, except for the entitlement we have incorporated into this legislation.

I am especially pleased, Mr. Speaker, that the conferees agreed to maintain an expansion of title IV of the Social Security Act to help non-AFDC families pay for child care—$1.5 billion over 5 years. As an entitlement, this is the more reliable funding mechanism and adequate funds are more likely to reach those in need than through an appropriations process where funds have to be fought for every year.

EITC EXPANSION

Finally, as an original sponsor of the Employment Incentives Act, I strongly support the expansion of the earned income tax credit contained in this bill. This approach complements and is integral to a comprehensive national child care policy, for there is no greater disincentive to family self-sufficiency than to work all year and still be poor.

Based on what I know about child care—and I have been in this business for a long time, Mr. Speaker, the provisions in reconciliation offer the best first steps toward a child care policy that works for children and their families. I urge my colleagues to support this bill that will not only help families purchase the critical child care they need and protect their economic security, but also will allow States to begin to build a quality child care system that has as its foremost goal, the developmental and safety needs of children.

I also strongly support the Medicaid provisions contained in the Omnibus Budget Reconciliation Act of 1990 to significantly improve the health of the Nation's children. I want to thank my colleague, Mr. WAXMAN, chairman of the Subcommittee on Health and the Environment, for his outstanding leadership and unwavering persistence on behalf of the health of the Nation's women and children.

I am especially pleased to support the provisions in this bill which phase in mandated Medicaid coverage for children up to age 18 in poor families, perhaps the most medically neglected of all age groups.

Mr. Speaker, we have made progress in recent years, and this budget continues that progress. Let us continue to move forward and build on what we know works. I urge my colleagues to join in support of this critical and timely legislative package for the Nation's children.

If we fail to recognize the financial and human sacrifice of doing nothing, the budget deficit today will seem minuscule compared to the losses this Nation will face in the coming decades as a result of our neglect.

Mr. PANETTA. Mr. Speaker, I yield 30 seconds to the gentleman from pennsylvania [Mr. KANJORSKI].

(Mr. KANJORSKI asked and was given permission to revise and extend his remarks.)

Mr. KANJORSKI. Mr. Speaker, some 200 years ago your predecessor, Frederick A.C. Muhlenberg, was the first Speaker of the U.S. House of Representatives. He was also the first Congressman who represented my district. To paraphrase his famous words as he went off to the Revolutionary War, he said, "There is a time to preach, there is a time to fight." My addition to his words of wisdom is, "There is a time to govern, and now is the time."

Mr. Speaker, today is D-day for the American Government.

Today is the day we decide whether we move forward with the largest deficit reduction package in our Nation's history, or lurch backward into further deadlock, despair, disarray, demagogy, and deficit spending.

The easy and popular choice today is to vote against the deficit reduction package; to pick apart its flaws, and there are many, and to note that any one of us could write a better package and a fairer package.

It is always easier to tear down than it is to build up.

But this is not a time merely to criticize. It is a time to be constructive as well.

As I have outlined in my previous speeches on the budget, Mr. Speaker, it is possible to prepare a better deficit reduction package, and I have done so.

My proposal would make deeper cuts in foreign aid, defense, and unnecessary agricultural subsidies. It would reduce the tax burden on senior citizens and working families, and would require millionaires to pay their fair share of the cost of running our Nation. My proposal would put a windfall profits tax on the outrageous profits of the multinational oil companies, profits which have doubled in the last 3 months.

Many of my recommendations were included in the deficit reduction package which passed the House on October 16, 1990. A number of them have even survived and are in the compromise agreement we are considering today. Unfortunately, a number of my recommendations have not been included in the final agreement.

Like a spoiled child who has lost a game, it is possible for Members to stomp and storm about the provisions in this agreement they do not like and threaten to take their ball and go home.

But we must recognize that we do not always get our own way, or have the opportunity to approve the best possible bill.

As Members of Congress we have a greater responsibility to those who elected us.

There is a time to govern, a time to lead, a time to put aside partisan differences, a time to compromise for the good of the Nation, and a time to make difficult choices and reject the siren cries of the special interests who do not like individual items in this bill.

This is such a time.

If we do not act on this agreement today we run a very real risk of the process falling apart, of never being able to put another agreement together, and of never being able to significantly reduce the deficit.

That would put our economy and our Nation in a tailspin. It could turn recession into depression.

This is a price we cannot afford. As much as we dislike some of the individual provisions in this agreement we must approve it to get on with the job of rebuilding our economy.

Each of us has a natural tendency to focus on the aspects of this agreement we do not like.

It is important to put these flaws in perspective, to remember that they are only a small part of a $500 billion agreement.

It is also worth reviewing some of the good parts of this agreement, and how different sectors of our society emerged from the budget battle.

First and foremost, this agreement does reduce the deficit by more than $40 billion this year and $500 billion over 5 years. That is real money in anybody's book.

Best of all, these are real savings, not "blue smoke and mirrors" cuts as we have seen in past plans.

Second, the agreement is fairly balanced between spending cuts and revenue increases. While it is popular in certain demagogic quarters to decry this agreement as just a big tax increase, that is an unfair and inaccurate characterization.

The vast majority of this agreement, more than two-thirds of the total, comes from spending cuts not tax increases.

For every $1 in new revenues there is at least $2 in spending cuts.

Some people have asked me why this legislation has to contain any revenue increases at all, why we cannot reduce the deficit through budget cuts alone.

The answer is that while we could balance the budget through spending cuts alone, in order to do so we would either have to make unacceptably large cuts in Social Security, which the Congress and I do not want to make; or in defense, which the President is unwilling to make; or we would have to totally eliminate whole agencies like the FBI, the FAA, or the Labor Department.

The size of our deficit is so large that it cannot be eliminated exclusively through spending cuts. Nonetheless, this agreement, which contains more than twice as much in spending cuts as it does in revenue increases, has a reasonable balance.

Third, the final agreement is much fairer to lower and middle class families than the agreement prepared by the President's budget summit. As a result of strong bargaining by the House, the tax burden on working families has been cut back substantially, and the wealthy will pay a fairer share of the burden.

The tax agreement contained in the original summit agreement drafted by the President and the leadership had its priorities completely upside down. It proposed increasing the taxes on low income families the most and high income families the least. It also placed a substantial new burden on middle income families.

This agreement reversed those priorities, taxing people earning over $200,000 the most, and people earning under $20,000 the least. It reinforces the American tradition of taxing people based on their ability to pay.

PERCENT CHANGES IN FEDERAL TAXES BY INCOME

Adjusted gross income (in thousands)	Less than 10	10 to 20	20 to 30	30 to 40	40 to 50	50 to 75	75 to 100	100 to 200	Over 200
President's original summit plan	7.6	7.9	3.3	2.9	2.9	1.8	2.1	1.9	1.7
Final compromise plan	−2.0	−3.2	1.8	2.0	2.0	1.5	2.1	2.3	6.3

Source: Joint Committee on Taxation.

It is clear from this table that the final compromise agreement we are considering today is much fairer than the original summit plan endorsed by the President.

The following table outlines how much of our total tax burden different income groups pay under current law, and how much they will pay after this legislation is enacted into law. The table makes it clear that passage of this bill will make the Tax Code more progressive.

PERCENTAGE OF TOTAL INCOME TAX REVENUES BY INCOME GROUP

Adjusted gross income (in thousands)	Less than 10	10 to 20	20 to 30	30 to 40	40 to 50	50 to 75	75 to 100	100 to 200	Over 200
Current law	1.6	7.6	11.9	13.4	10.2	20.0	7.7	12.1	15.4
New plan	1.6	7.2	11.8	13.4	10.2	19.9	7.7	12.1	16.1

Source: Joint Committee on Taxation.

It is worth noting a few specific improvements this new plan makes to the original summit agreement, which I voted against, and which was rejected by the Congress.

We cut by nearly 60 percent the gas tax increase proposed by the President's budget summit. If the original House position had been accepted by the President and the Senate we would have totally eliminated the increase in gas taxes.

We eliminated the proposed 2-cent-a-gallon tax on home heating oil endorsed by the President. This insensitive White House proposal would have devastated northeastern Pennsylvania families and senior citizens living on low or fixed incomes, while having little or no impact on the President's affluent, country club buddies in his home State of Texas. Fortunately, it is no longer in the bill.

We also eliminated the proposal the President insisted upon earlier to double the length of time unemployed workers and their families must wait before they can start collecting unemployment benefits. Like Social Security, unemployment benefits are paid out of special trust funds with dedicated sources of revenue to guarantee that funds are available when they are needed. It is cruel to make workers and their families wait a half a month before they receive their first dollar of benefits. The President's budget summit agreement contained such a recommendation. The agreement we are considering today does not.

Fourth, we have virtually eliminated the cuts in Medicare for the elderly pushed by the White House and we have blocked any reduction in Social Security benefits. In addition this bill specifically guarantees that Social Security, which is funded through its own dedicated source of revenues, would be off-budget and off Gramm-Rudman. It also makes it easier to block legislation which would cut Social Security benefits or the level of funding in the Social Security trust fund. As a result senior citizens will no longer have to worry about funds being diverted from the Social Security trust fund to other purposes. Their hard-earned contributions and benefits will be safely protected.

The President's original budget agreement would have doubled both the annual Medicare deductible and the monthly premiums paid by senior citizens for part B doctors' bills. Instead, under this agreement, the annual deductible, will increase only $25—one-third the size of the President's proposal—and monthly premiums will remain at 25 percent of program costs.

In addition, various other administration-backed proposals to cut Medicare benefits and increase payments by senior citizens have been rejected.

The final agreement protects some of society's most vulnerable citizens, seniors living on fixed incomes. As a result it has received the support of every major senior citizen organization in the United States.

As we bring this lengthy, 10-month budget process to a close there are several lessons we should learn.

Never again should we delay so long in passing important budget legislation. We must insist that the President submit his budget on time, and that it be based on "real" numbers rather than "blue smoke and mirrors" and "rosy scenarios." For our part, we must act on appropriations bills more quickly. When the 1991 fiscal year started on October 1, 1990 the House had passed only 10 of the 13 regular appropriations bills and the Senate had passed only 5 of the 13 bills. We can and should do better.

Never again should we turn over the deficit reduction process to a small group of Congressional and White House negotiators. The summiteers were out of touch with both the Congress and the American public, and that is why their original agreement was rejected.

Furthermore, it is fundamentally wrong to transform our form of government from a democracy of the

people to an oligarchy of the few. We were elected to make the tough decisions and we should get on with the job, rather than turning it over to someone else. Turning the job over to the small group of summiteers also resulted in the loss of the valuable experience embodied in our committee system.

I anticipate that our budget problems and our economic problems as a Nation are sufficiently serious that even with the enactment of this legislation we will have to make additional cuts next year. No one should labor under the delusion that this bill is a panacea which will cure all our economic ills.

The probability of a serious economic recession will worsen our budgetary problems, and it calls into question come of the economic assumptions which underlie this budget agreement.

As a result our task next year will be even more difficult than it was this year, and it is thus important that we begin work immediatley on the fiscal year 1992 budget. I urge the President, the Budget and Appropriations Committees to begin that work now, rather than wait until the beginning of 1991.

As we begin this process again let us also remember who has already contributed to our deficit reduction efforts in the past, and who has not. Let us also not lose sight of who can afford further cuts. We should be targeting millionaires, windfall profit rich multinational oil companies, foreign aid, and wasteful subsidy programs for the next round of cuts, not working families or senior citizens living on fixed incomes.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. SHAW], a member of the Committee on Ways and Means.

Mr. SHAW. I thank the gentleman for yielding.

Mr. Speaker, I would like for just a couple of moments to speak to the conservative colleagues on this side of the aisle. You know, for so long here in this House we have been mistreated by the majority, we have been left out of conferences and we have not been players.

Sometimes we do not recognize when we have been brought to the table and we have been part of the deal-making and we have been part of the process which we call the democratic process and the way this House should work.

This happens to be one of those occasions. All of us here in this House, on both sides of the aisle, liberals, conservatives, Democrats and Republicans, have the greatest respect for the gentleman from Minnesota [Mr. FRENZEL]. He would not be here supporting a package which is a tax-and-spend package. And for this to be characterized as a tax-and-spend package is simply not there. This is one of the first times that we have had a chance, we the conservative Members of this House, on both sides of the aisle, have had a chance for our voices to be heard.

Let us not turn away from it, let us not sit down and curse the darkness. Let us light a light bulb. Let us be able to go home and tell our kids and our grandchildren that we have done something for them today, that we have turned this terrible deficit process around, that we have put in place a process where there will be curbs on spending, that we have voted for some real cuts and, yes, we have voted for some revenue. But the sting of the revenue is very little, considering the benefit that future generations will get from the vote tonight.

We know that the Democrats are going to have to carry the majority of the vote tonight, but I hope that my colleagues on this side of the aisle will recognize when you are part of the process and will vote "yes" so we can bring about a respectable number of Republicans with us on this most important vote.

Mr. FRENZEL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Speaker, I rise in strong opposition to this massive $137 billion tax increase. Let us be honest about it: That is just what this bill is, a massive tax increase. If we get deficit reduction of any significance from a bill that contains at least $245 billion in new spending, I will be very surprised.

This legislation only fans the flames of public outrage with the U.S. Congress. To say that we are letting the American people down is a gross understatement. They are asking us to control spending, and we are not even willing to try.

The public is not stupid; they are not going to stand for paying 5 cents a gallon in additional gas taxes so that the Federal Government can give a grant to renovate Lawrence Welk's birthplace as a tourist attraction. No wonder people are fed up. They should be, and so am I.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from South Carolina [Mr. SPENCE].

(Mr. SPENCE asked and was given permission to revise and extend his remarks.)

Mr. SPENCE. Mr. Speaker, there is no denying that we have a budget deficit. It is too bad that this topic was not more popular in some quarters years ago when too many in this Congress loaded the budget with spending on top of spending, without a care to where that would put this country in the years ahead.

It is no surprise that we have a deficit, and the reason shouldn't come as a shock to anyone; we have spent too much money unnecessarily. It is time for government to tighten its belt. It's that simple. Just take a look at the hidden line items that have been funded over the years. Now I might be naming someone's special project, but here it goes:

Thousands of dollars to study the mating habits of frogs in South America, when we have our own frogs right here at home!

$2.1 million for the national survey of American sexual habits and attitudes. There were probably cheaper ways of conducting this study.

$107,000 to study the sexual habits of Japanese quail. The conclusion, you may be relieved to know, is that male quail prefer female quail over other males, or ducks.

It is true that these are, in themselves, small amounts compared with the total budget, but, taken together, these projects do add up.

The true insult is that the big-government spenders have caused our people to be taxed too much to pay for it. In 1930, 15 percent of our income went for taxes of one kind or another, now we pay about 44 percent, and by the year 2000, just 9 years away, it is estimated that two-thirds of a person's income will be taken for taxes. This is money that the individual taxpayer has better ideas on how it could be spent.

Even so, taxes cannot pay for our excesses. We already have borrowed over $3 trillion and we are still borrowing money just to pay the interest on this debt.

It is obvious that we have to cut this deficit but we don't have to increase taxes to do it. All the proposals that we have been permitted to consider raise taxes on all of our people, in one way or another, and adds to the burden of the taxpayer. Not many of the American people realize the multiplicative nature of these taxes and the costs of their eminent and expansive damages. Consider the ripple effect an increase in the gasoline tax would cause. The extra cost that truckers will pay will inevitably be passed along from distributors to stores and finally to the consumer. The ramifications of this unfair double tax will be evident in the loss of buying power of each and every individual as the price of every good and service escalates.

Although some proposals are more egregious than others, all of them add to the Medicare burden on our elderly. This particular group in our society, our own mothers and fathers and grandparents, have already given the better part of their lives in contributing to the well-being of America and it is clearly unfair to demand that they pay a higher price.

We simply do not need to raise taxes. We can cut or freeze spending. Even the so-called spending cuts included in the various proposals we have considered, ironically labeled as deficit "reduction" or the "last best hope," only make cuts in spending increases in existing programs. To most people, a cut in an increase is still an increase no matter how you cut it. In addition, new and additional spending

programs are included in the deficit reduction bills. And I regret being cynical about such things, but tradition seems to bear out that the more revenues the government receives, the more it will spend. The American people are not asking us to spend more. They are telling us to spend less. Fiscal sanity cannot be achieved through devious methods and I will not be a part of it. I ask my colleagues to join me in opposing new taxes and to make real cuts in government spending.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. I thank the gentleman for yielding.

Mr. Speaker and my colleagues, it has taken us a long time to get where we are. We should have been here a long time ago. It has been a very tumultuous 2 weeks. One of the things that I do not think many people will accuse me of being is liberal, inclined to be excessive in spending, and I am not much of a mathematician.

But to my colleagues on this side of the aisle, I would say that I do count fairly well. We could not count enough votes even to force a vote on deficit reduction that was brought about only by reductions in spending.

Well, I would have liked it that way, but the votes, the numbers, are not there. I accept the reality that we must have a deficit reduction package. It has revenue in it. It has spending in it. It has enforcement provisions that are going to contain spending. Some say they are not strong enough.

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But I would say to my colleagues who say they are not strong enough, "What do you have if you don't have this package which does have the best enforcement provisions that anyone has been able to write that can constitutionally bind us?"

Mr. Speaker, I think the time has come when America's impatience is going to be all-consuming and will consume us if we do not take this decisive step, if we do not give the American people a deficit reduction package.

I urge support for this bill.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Califronia [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, this is not a defieit reduction package. Next year; does anyone actualy believe that next year we are going to come in here and the deficit is going to be lower? This is not a deficit reduction package. Next year we are going to come here, and I am going to reread these words, and we are all going to look at the and say, "Yes, the deficit is actually larger."

Big surprise. Who is it a surprise to? It is a surprise to the American people supposedly, but they are not being fooled. This is a massive tax increase. It is not a deficit reduction package.

Mr. Speaker, none of the soak-the-rich rhetoric is going to fool the American people because they know they are going to pay higher taxes, and they will be paying higher taxes. The soak-the-rich rhetoric is not going to be any consolation to the man who we have taxed out of a job because this country is teetering on the edge of a recession. We all know that. We know it is a weak economy.

Mr. Speaker, we are passing a massive tax increase on the edge of a recession. We are going to tax people right out of a job. If we are not increasing their taxes, we are going to tax them by eliminating their work.

Mr. Speaker, I must say to my colleagues, "If you're voting this package to get out of here; if that's why you're voting for that, just to get out of here, you're going to have trouble getting back in here because the American people aren't going to stand for this type of irresponsibility. When they start losing their work because of this recession you've taxed us into, they're going to want you out of your job, and, if you want to go home now, they're not going to let you come back."

Spending is still going up under this package. It is going up, up, up. It is not a deficit reduction package. We have not said no to one Federal program. We cannot even say no to dirty art.

The SPEAKER pro tempore. (Mr. FAZIO). It is now after 6 o'clock a.m. The gentleman from Minnesota [Mr. FRENZEL] has 13½ minutes remaining, and the gentleman from California [Mr. PANETTA] has 14½ minutes remaining.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. MCHUGH].

(Mr. MCHUGH asked and was given permission to revise and extend his remarks.)

Mr. MCHUGH. Mr. Speaker, the country desperately needs this package despite its imperfections.

Mr. Speaker, I rise in support of this deficit reduction package.

For 9 years, our country has suffered under fiscal policies that were unrealistic and unfair. Those policies tripled our debt, crippled our trade balance, and mortgaged our future. For 9 years, the President told our people that there was no problem and no need for painful adjustments. For 9 years, Congress was unable or unwilling to make those adjustments alone.

Now, at long last, the President and Congress are facing up to the problem. For the first time, we have come together on real spending cuts and revenue increases. This deficit reduction package is not perfect. Each of us would have written it differently. But it represents real deficit reduction, and it is a fair compromise.

The time for negotiation and delay is past. The time for action is now. The people expect us to govern. I urge my colleagues to support this package.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. CARDIN].

(Mr. CARDIN asked and was given permission to revise and extend his remarks.)

[Mr. CARDIN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

Mr. PANETTA. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, all across America the question is being asked: "Why is the public so turned off on politics?"

Mr. Speaker, I think one reason is simply that the public understands that all too often they have not been told the truth.

I remember in 1981 when the Congress passed the budget and tax plans which doubled military spending and cut tax for the wealthy by huge amounts, and set us on the road to exploding deficits. Five Republicans and 123 Democrats who still serve here this morning including myself opposed those decisions, but we lost. President Reagan won. For the last decade the hard truths about the Federal budget have been hidden from the American people. They have been told that we would simply grow out of those deficits without the need for any real pain. Mr. Speaker, echoes of that escapism still are present on the floor this morning.

But at long last the American people are finally being told the truth, that those deficits cannot be contained without both spending reductions and revenue increases. This is the beginning of the end of the escapism which has, in my view, corrupted the economic debate of the 1980's.

The second reason I think Americans have been so turned off on politics is because since 1978 the wealthiest 1 percent of Americans have seen their incomes essentially double at the same time that their tax rates were being cut in half, and the man in the middle was being squeezed. Middle-class working families came to believe, unfortunately, that the fix was in for the high rollers while they were being left out. I think this budget changes that, too.

In contrast to the original budget deal which this House rightly turned down 2 weeks ago, this bill finally asks the very wealthy to begin to pay their fair share. It puts $20 billion back in the pockets of senior citizens. It cuts the tax hit on the middle class by one-third in comparison to the original summit package. It raises four times as much money from the wealthy as did the original package.

This bill does some dumb things. It does not go as far as we would want in shifting the burden of government from the middle class to the superrich, but it is a long overdue beginning, and we will continue that fight next year.

Mr. Speaker, I simply ask my colleagues to support this budget. It

treats Americans like mature adults instead of manipulating them like children with easy-answer slogans. It puts us back on the road to fairness. It really calls us to a new maturity of political dialog. It closes the chapter on the greed and escapism of the 1980's.

It has been a long struggle to get to this point. It has been worth the fight. Vote for it. It is a good thing to do. It will help our country.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. ARCHER], vice chairman of the Committee on Ways and Means.

(Mr. ARCHER asked and was given permission to revise and extend his remarks.)

Mr. ARCHER. Mr. Speaker, I rise in opposition to the conference report on the fiscal year 1991 budget reconciliation bill. Earlier this year, President Bush extended his hand to Congress in a good faith effort to negotiate a bipartisan agreement to bring the Federal deficit under control. He asked the House and Senate leadership to join with him in devising a plan to reduce the deficit by $50 billion in fiscal year 1991 and $500 billion over the next 5 years.

I agreed to participate in those budget summit sessions because I shared the President's belief that the Federal budget deficit is the most important problems facing our Nation today, and I shared his hope that we could negotiate with the Democrat leadership on a bipartisan basis to come up with a deficit reduction plan that was in the best interests of our country.

What did the President get in return for extending his hand in good faith? In July, the Democrat leadership threatened to permanently break off the negotiations unless the President first agreed to publicly rescind his no new taxes pledge. They gave him an ultimatum. Either he agreed to include tax increases in the final agreement, or they would walk.

And because the President believed so strongly that a deficit reduction agreement was critical to the long term health of our Nation's economy, he issued a joint statement with the Democrat leadership that tax revenue increases would have to be a part of the bipartisan package. Yes, the Democrats got the President to agree to their coveted tax increases. But in return, they agreed to include three other critical components in the plan: significant spending reductions, economic growth incentives, and budget process reforms to enforce the agreement over the next 5 years.

After two more agonizing months of negotiations, the bipartisan negotiators finally reached agreement on a package which contained those four elements. The budget summit agreement wasn't perfect. In fact, there was something in it everyone could hate. But that is the essence of compromise. Everyone gives up something they want, and takes something they don't want.

I supported the original budget summit agreement, not because I liked it, but because I believed it was the best bipartisan budget we could ever get the Democrat leadership to agree to, given the current makeup of the Congress and the deep philosophical divisions between the parties. Yes, it unfortunately included some tax increases—but it also contained economic growth incentives, real spending reductions, and important budget process reforms to enforce those spending reductions in future years.

I am sorry to say that when the budget summit agreement went down to defeat, so did any notion of bipartisanship. Instead, what we got for the next 3 weeks was a steady barrage of demogogic rhetoric from the Democrat majority that the President's only concern was protecting the wealthy. Webster's defines demagoguery as "the use of popular prejudices and false claims and promises in order to gain power." And that's exactly what we got: popular prejudices and false claims.

The Democrats concluded there was no profit for them in bipartisanship. But they apparently did believe they could profit from inciting class warfare by charging that the wealthy weren't paying their fair share of the tax burden. The only problem with their rhetoric is that it's blatantly untrue.

Fact. The Federal Income Tax System is significantly more progressive today as a result of the tax policy changes enacted in the 1980's than it was during Jimmy Carter's presidency. Progressivity cannot be measured by looking solely at income tax rates. The income tax base must also be taken into consideration. And that base was significantly broadened by the Tax Reform Act of 1986. In exchange for the lower tax rates—which applied to all Americans—wealthy taxpayers gave up numerous deductions, credits, and exclusions. As a result, the wealthiest taxpayers are paying higher taxes now than they were during the late 1970's.

Fact. The reductions in marginal tax rates during the 1980's resulted in a significant increase in the tax burden on the richest Americans. Today, the richest 10 percent of all taxpayers pay 55.5 percent of all income taxes, up from 48 percent before the tax rate reductions of the 1980's.

Fact. The share of Federal income tax collections paid by the rich grew by 16 percent during the 1980's while it fell by 19 percent for the middle class and poor.

Fact. American families, no matter what their income levels, improved their positions during the 1980's. The growth in family incomes benefited all income groups.

The American public understands that our Nation's chronic Federal budget problems did not come about because they are undertaxed. The plain fact is that Federal taxes as a percent of GNP are at one of their highest levels in our Nation's peacetime history. In 1990, taxes as a portion of GNP will surpass 19 percent for the fourth year in a row. It's the Democrat's appetite for spending that is responsible for our mushrooming deficits. Over the past 20 years, Federal spending as a percent of GNP rose from 18.4 percent to 22.6 percent today.

The Democrat majority believes there should be a Federal solution to every problem in this country, and they spend the taxpayers' dollars like drunken sailors in order to find it. Even 10 years of $100 to $200 billion deficits and 3 trillion dollars' worth of public debt isn't enough to satisfy their voracious appetite for more and more Federal spending.

This budget reconciliation bill does nothing to change that pattern. Instead, it guarantees that Federal spending will increase by over 10 percent in 1991 alone—over twice the rate of inflation—and it raises taxes to pay for those spending increases.

And what happened to the other fundamental elements agreed to by the Democrat leadership? Where are the economic growth incentives and budget process reforms to enforce the minimal spending reductions slated to take place over the next 5 years? There are no economic growth incentives in this legislation. They've completely disappeared.

The budget process reforms have been substantially diluted from the original budget summit agreement. The mandatory domestic spending caps in the conference report have such a large fudge factor that they're virtually meaningless. The Democrats flatly refused to even consider my legislation to give the President a line item veto. They ignored the many excellent recommendations put forth by the Grace Commission to reduce spending and eliminate Government waste. Foreign aid spending goes almost totally untouched, the 5-year reductions in this category amount to a paltry $2 billion.

I say enough is enough. I refuse to ask my constituents to send any more of their hard-earned dollars to Washington so that the Democrats in Congress can find new and ingenious ways to spend it.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Iowa [Mr. GRANDY].

(Mr. GRANDY asked and was given permission to revise and extend his remarks.)

Mr. GRANDY. Mr. Speaker, once again I am going to join the majority of our minority and support this package tonight, and, before we get into the debate as to whether this is another one of these prejudiced packages where the majority gets everything, the Democrats get the gold mine and the Republicans get the shaft, let me point out three items that I think we can legitimately on our side call Republican initiatives that are in this package.

Mr. Speaker, one is the repeal of section 2036C. The real estate tax estate freeze is repealed, the proposal of the gentleman from Texas [Mr. ARCHER] signed on by many Republicans. Twenty-five percent deduction for the self-employed, an item that businessmen, small businessmen, and farmers, have been asking for for years, and Republicans have been trying to give them, and finally a new tax credit for the costs incurred in complying with the public accommodation provision of the Americans With Disabilities Act. That was introduced on this side of the aisle and has been tried to get into several packages.

Let me just say that there are small victories for us. Perhaps not the huge triumphs that we would wish. But none of these provisions were in either the summit package or in the Democratic package. They were in the Kasich-Pursell bill which was not allowed to come to this floor.

So, Mr. Speaker, although we have been denied, we have been allowed to put some of our language into this package, and I suppose at this point,

at this late date, we have to be grateful for little favors. But I think we can say that we have made a difference in this package tonight. If we wait one more time, if we say no again, I think we can also legitimately say that we have abdicated any responsibility toward the reduction of this deficit.

Therefore, Mr. Speaker, I urge my colleagues here to support my colleagues here.

Mr. FRENZEL. Mr. Speaker, I yield 3½ minutes to the gentleman from Texas [Mr. DELAY].

(Mr. DELAY asked and was given permission to revise and extend his remarks.)

□ 0610

Mr. DELAY. Mr. Speaker, I know we have had a long night, and it is 6:10 Saturday morning. I hope it is beautiful outside.

As I was listening to the remarks of those that support this package, something struck me, an old overused quote, that those who do not understand history, are destined to repeat it.

I want to bastardize that a little bit and say that those who do not remember history, are destined to repeat it.

Who are we trying to kid here? The American people, or each other? Who are we trying to convince here? The American people, or each other?

I have heard more rationalization about why I am voting for this bill than I have ever heard in a long time. You can rationalize it all you want to, you can try to cover it up all you want to, but history is repeating itself on the floor of this House.

We have had deficit reduction packages in the past. We have had 2-year, 3 year, and 5-year packages. Hardly any of them, in fact, I do not know of one that has lasted over 2 years. In 1982 we had a plan. It lasted 2 years. It was a 5-year plan. We got more spending and higher deficits. The American people remembered.

We have had Gramm-Rudman. It was a 5 year plan. It lasted 2 years, and we started changing the targets. It has slowed the increases in deficits slightly. The American people remembered.

So I took a look a this bill as a 2-year bill, because I know the appetite of Congress. This year, in 1991, at the end of 1991 we will have a higher deficit by $30 billion than we had last year, because of this wonderful deficit reduction package.

In 1992 we will have a higher deficit by about $10 to $20 billion over 1990, because of this wonderful deficit package.

But what do we get for that? We get about $164 billion in new taxes and increased taxes, and we get a huge increase in spending. We get new spending programs in this bill. Most of the slowdown in the increase in spending comes in the third and fourth and fifth year,

So what we got? We have got a 2-year package with higher deficits in a deficit reduction plan.

This is a huge tax bill, on all Americans, that will have higher deficits than even last year, and huge increases.

Remember one thing: We do not know what is hidden in this bill.

I just want Members to think about this: remember one thing that we know, we do not know what is in this bill. We do not know what is hidden in this bill.

You may be voting for this bill because it is a solution to the chaos, but you are going to wake up Tuesday or Wednesday or Thursday before the next Tuesday election, and your papers will have read this bill, and they will start pointing out to you what is in this bill, and you are going to be embarrassed, and the American people will remember.

Mr. PANETTA. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Illinois [Mr. RUSSO].

Mr. RUSSO. I thank the gentleman for yielding.

Mr. Speaker, let me just say as someone who is finishing his sixth year on the Committee on the Budget, I want to congratulate the chairman, the gentleman from California [Mr. PANETTA], for the long hours he has put in. There is nobody that worked harder than he does. I know. We are roommates. He does not come home until late at night and gets up early in the morning. He has done a heck of a job. He is a man of a lot of integrity and credibility when it comes to the budget process.

The chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI], I want to thank for making tax fairness the issue for the Democratic Party and for this country.

I also want to say to the senior citizens in this country who have given my chairman a hard time, if it wasn't for the gentleman from Illinois [Mr. ROSTENKOWSKI], the cuts in Medicare would be $60 billion, not $42 billion.

I think it is important to point out that he fought very hard for the seniors in this country, and I am sure he would have liked to have done better. But I think saving $18 billion is something we ought to be applauding.

Now the public is still up, watching this debate. They must be the most confused group of people in the world.

They hear Members from one side of the aisle come in and say, "This is nothing but a tax increase, a sham. There is no deficit reduction."

Then you hear Members from this side of the aisle who point out the strong points. They even hear a minority on that side of the aisle who say that this is true deficit reduction.

Let me tell you, folks, this is without question a break with the past, a break with the past 10 years in which the rich of this country have been having a wonderful time at the expense of the middle class.

Does it go far enough? No, it does not. Do we want it to go farther? Yes, we do, and we will take care of that. But this is definitely a break from the past.

The middle class has been paying for mergers and acquisitions on Wall Street. They have been paying for savings and loan bailouts. They have been paying for the HUD scandal. They have been paying for defense waste, fraud, and abuse.

It is time we reversed that, and with this budget we do reverse that. In the progressivity charts, people making over $200,000 get a 6-percent increase in their taxes, the highest of any level. This is a change. It makes the Tax Code more fair. That is what we need to show to the American public, and it happens here.

We heard there is no deficit reduction, there is no reduction in spending.

Well, let me tell Members, if you think $99 billion in entitlement cuts in 5 years is no pain, just hold on. You are going to find out that pain as the people begin to realize the kind of cuts we had to make here, the kind of sacrifices we had to ask them to share.

Some Members want to get up here and castigate everything they see as not being deficit reduction. Do you know why? Bcause they want deficit reduction without pain.

That is not honest, that is not possible, and it just will not happen. So you can criticize all you want, but the pain is here, and we need to do something.

I guess $170 billion in deficit cuts over 5 years is not pain. I guess $69 billion of debt service reduction is not real.

This is a real package, and in the 6 years I have served on the Budget Committee, nothing has been as real as this. We ought to be proud of the fact that we are able to work together in a bipartisan way to achieve this. It does not go far enough, but it is a start.

I ask Members here tonight to support this. It is not perfect, but we need to support this. It is the right vote, it is the responsible vote, and it is the honest vote. The American people need honesty out of this body, and we are giving them honesty tonight.

Mr. FRENZEL. Mr. Speaker, I yield 1½ minutes to the distinguished gentlewoman from Connecticut [Mrs. JOHNSON].

(Mrs. JOHNSON of Connecticut asked and was given permission to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. Mr. Speaker, there comes a time when one is simply obliged to act, and I believe we are at that time. If this were any easy matter, we would have had a budget resolution this year. If this were an easy matter, it would not have taken 4 months for the Congress and the executive branch to come to an agreement. If it were an easy matter,

it would not have taken all of these difficult days for us to act on the budget summit agreement.

It is not an easy matter. But the economy is soft, jobs are threatened, and the quality of life is at stake for people in my district. We have men and women stationed in Saudi Arabia. This is simply not a time at which we can afford to have the United States of America have no budget.

This is not a bad budget. As budgets go, this is real change in the right direction. It has fixed a number of problems in the summit agreement, Medicare, home heating oil, fairness, and tax policy. It extends programs that have made a difference in the lives of my people, like mortgage revenue bonds and low-interest housing tax credits.

It moves us forward on some critically important programs like better health care for poor children. It provides a new family support program that has the potential to reduce poverty among children, like Social Security has reduced poverty among seniors.

Mr. Speaker, this is not perfect, but it is incremental change in the right direction, and for those who care about line item veto and recision authority, it has enforcement.

It does not solve our problems, but it helps move in that direction. I ask the support of Members.

Mr. FRENZEL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Louisiana [Mr. McCRERY], a member of the Committee on the Budget.

(Mr. McCRERY asked and was given permission to revise and extend his remarks.)

Mr. McCRERY. Mr. Speaker, this is not a good deficit reduction package, but it is the best deficit reduction package. It is better in my estimation than the budget summit agreement. It is better because the regressive tax increase has been reduced from 12 cents to a nickel.

□ 0620

It is better because the Medicare cuts in this package fall much less heavily on the elderly, and it is better because overall the taxes in this package are more progressive.

This package is better than either of the two realistic alternatives. It is better than sequestration, which would decimate our national defense, and it is better than a long-term continuing resolution, which would simply be more and more spending with no accountability, and that is unacceptable.

Mr. FRENZEL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas [Mr. SMITH].

(Mr. SMITH of Texas asked and was given permission to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, the budget agreement is a cruel hoax—both on working men and women and on those with fixed incomes.

The political rhetoric is "tax the rich."

The budget agreement taxes everyone. Americans' cost of living is about to go up hundreds of billions of dollars in new taxes, fees, and assessments.

This is not necessary.

Control Government overhead spending—reduce it 10 percent for 1 year and then hold increases to the rate of inflation for 4 years—and taxpayers could save $143 billion without cutting their services and benefits.

Then why new taxes? Because the Democratic leadership is committed to policies of tax and spend. This budget agreement proposes the largest tax increase in American history, contains no significant incentives for economic growth or jobs, while increasing Government spending by almost $200 billion.

A "no" vote on the budget agreement is a "yes" vote for America.

When trying to reach a destination, it's easy to find yourself taking the same well-worn route. Mr. Speaker, this is exactly what Congress has done with the budget this year.

The traditional approach to reducing the deficit is to consider raising taxes or cutting Government programs or both. Inevitably, the focus is on what Government programs should be funded and who should get the money.

Perhaps we should take a road less traveled and look instead at how the public funds are spent.

To meet the Gramm-Rudman deficit reduction target for this year, anywhere between $30 and $50 billion will have to be generated by additional revenues or extracted from the budget.

All the discussion so far has involved more taxes or reductions in Government benefits such as entitlements and personnel. In fact thousands of furlough notices were mailed to Federal employees with the expectation that they would have to be laid off temporarily for the Gramm-Rudman target to be hit.

Let's climb out of that mental rut and turn to a part of the Federal budget that receives very little scrutiny: Indirect costs. Also known as overhead, indirect costs include such categories as travel, communications, printing, and supplies. Federal Government indirect costs this year will exceed $340 billion.

Before you reach for the 4-inch-thick copy of the Federal budget to check the figures, a gentle warning—you won't find them. There is simply no analysis or summary of indirect costs in the budget. Nor can you obtain such information readily from congressional sources. Members of my staff had to spend hours digging out the numbers from the Office of Management and Budget's private library.

But the effort was worth it. What we discovered was a way to reduce the deficit without hiking taxes one penny or trimming one Government program or benefit.

The solution: Substantial progress in reducing the deficit can be made by requiring all Federal managers to better manage indirect costs and reduce those expenditures by 10 percent. In some offices that means taking fewer trips, in others it might mean printing letters on both sides of the paper or keeping a closer watch on supplies.

Squeezing overhead costs may be a radical idea to the Government but it is an old concept to the private sector.

In researching this proposal, we called a number of randomly chosen Fortune 500 companies. Every business spokesperson contacted said either that a 10-percent cut in overhead was feasible or their company had actually implemented such a cut during a previous economic slowdown.

Taking the Government's total indirect costs, $340 billion, excluding $70 billion designated for research and development, leaves $270 billion in annual Government overhead. Reducing indirect costs 10 percent would save $27 billion. Holding increases in these costs to the inflation rate for 4 additional years would produce a 5-year deficit reduction package of $143 billion.

So let us change the direction of the deficit debate. It is not whether to increase taxes or decimate Government programs and personnel. The choice is between more taxes or less Government travel, maintaining programs or ordering fewer pencils, preserving benefits or passing on a new copy machine.

The vast majority of Americans oppose more taxes, want to make the Federal bureaucracy more efficient, and need their Government benefits. Fortunately there is a way to do that and also reduce the deficit. But we need to shift mental gears and point the budget drivers toward indirect costs.

Mr. PANETTA. Mr. Speaker, I yield 30 seconds to the gentleman from Alabama [Mr. BROWDER].

(Mr. BROWDER asked and was given permission to revise and extend his remarks.)

Mr. BROWDER. Mr. Speaker, I have a question for the distinguished chairman of the Committee on the Budget.

Mr. Speaker, the Employment Service and the Unemployment Insurance Programs are paid for by dedicated employer taxes. Year after year, we fail to appropriate sufficient funds from those dedicated revenues in the unemployment trust fund. And now, with across-the-board funding cuts, we jeopardize the very programs that stabilize local economies and keep Americans working.

At present levels, if the economy worsens, unemployed workers will go to local offices for help, only to find a "closed" sign on the door. How can we tell workers that they are entitled to

benefits when they are unemployed, if we don't provide a local office or staff to get those checks to them in a timely manner?

While the current shortfall is a serious one, if States know that additional funds can be made available in the future, they may be able to defer some expenses and keep offices open and services available in the interim. I would like to ask my colleague, the distinguished chairman of the Budget Commitee, whether the reforms to the budget process permit adjustments due to changes in the economy for critical employment and unemployment insurance programs?

Mr. PANETTA. Mr. Speaker, if the gentleman will yield, basically the budget process would provide, if the President determines that this is a dire emergency, that he could provide funding to meet those needs in that context.

We could also, if we want to, prioritize funding below the caps for these needs as well.

Mr. BROWDER. I thank the gentleman.

Mr. Speaker, on Monday the House approved the conference report on Labor, Health and Human Services, and Education fiscal year 1991 appropriations that, to meet spending limits, applied a 2.41-percent across-the-board cut to the discretionary programs within that appropriation.

I appreciate the difficult choices that had to be made by the conference committee and this House. However, I am concerned that the level of funds provided for State employment and unemployment programs will seriously jeopardize services to unemployed workers during an economic downturn in the months ahead.

Unemployment is on the rise nationwide. In September, the administration submitted an amended budget request for $90.7 million for employment insurance administration. The Secretary of Labor notified conferees, too, that the estimated need for additional funds for unemployment insurance had risen to $174 million due to deterioration in the economic outlook. The conferees recognized this problem in adding $90.7 million to the appropriation. However, the across-the-board cut took back $49 million of that $90.7 million leaving the Unemployment Insurance Program to begin a difficult year with a shortfall of $133 million.

The across-the-board cut, at the same time, jeopardizes the Nation's Employment Service—the State-Federal program designed to put people back to work. It's a double whammy. The reduced appropriation puts at risk a critical safety net for unemployed workers and their families and also partially guts the program that could put those unemployed workers back on the job.

Mr. PANETTA. Mr. Speaker, I yield 1 minute to the gentlewoman from Maryland [Mrs. BYRON].

(Mrs. BYRON asked and was given permission to revise and extend her remarks.)

Mrs. BYRON. Mr. Speaker, someone said that it is getting to be dawn outside. I am not sure, because we have been debating this since just early into this day.

Not one of us had been elected to take the easy way out, and on any budget vote there is no easy way out, only a courageous way. Now we have to begin to reduce that deficit that our constituency says must be done.

Earlier this evening in my office I was reading a letter. Let me quote from it.

> I have always supported you. I have always voted for you for the last 12 years. I don't even know whether you have an opponent this year, but I plan to vote against you. Why? Because this Congress cannot lead, it cannot legislate, and it cannot make the hard decisions. I agree with your views and have always been happy to support you.

The time has come for this Congress to lead, and the time has come for this Congress to make the decisions.

The courageous vote is to support this package that is before us this evening.

Mr. FRENZEL. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA].

(Mrs. ROUKEMA asked and was given permission to revise and extend her remarks.)

Mrs. ROUKEMA. Mr. Speaker, I regrettably oppose this package.

Mr. Speaker, I rise in opposition to this budget reconciliation package and I do so with regret. I believe my colleagues and the people of the Fifth Congressional District of New Jersey know my record as a fiscal conservative and that I have named the deficit "Public Enemy No. 1." There is no problem greater than getting control over the deficit now spiraling out of control, if we are to remain a global economic power, now and for future generations.

Nevertheless and regrettably, this budget is grossly inadequate in curbing spending and patently unfair in application.

Yet the budget package we debate today will fall significantly short of the $50 billion first year savings we were promised. And, based on the dubious enforcement procedures included in this package and official Washington's equally dubious track record, I would venture an educated guess that we will never see the $500 billion in deficit reduction over 5 years that this package promises.

However, although the Medicare cuts are not altogether acceptable, they are greatly improved over the previous summit package.

Admittedly, Medicare beneficiaries should bear their fair share of the deficit burden, but this proposal is out of proportion. Domestic discretionary spending is growing by the rate of approximately $42 billion annually. Should our sick elderly bear such a proportion of the deficit reduction? The answer is—no way.

Our past experience with Medicare cuts is clear. They have resulted in cutbacks in service. Cuts of this magnitude will not only put additional costly burdens on the sick elderly, but also result in further rationing of care.

However, my singular opposition to this package rests on a provision that marks a radical change in policy one that could be devastating for New Jersey. For the first time, this package would violate the sanctity of many critically important tax deductions. For the first time, this budget places limits on itemized deductions including limits on the deductibility of State and local income taxes, mortgage interest payments and charitable contributions.

Some say that this new tax will only impact on the wealthy. Nothing could be further from the truth. In many metropolitan areas with high housing costs, property tax rates, and State income taxes such as nothern New Jersey, a two-worker family may easily earn over $100,000 per year. But these are not wealthy couples! These working families are house poor and struggling to make their payments.

Even if you disagree with the status of these families and claim that this new tax is fair because the dollar amount that these families will pay is relatively small, it is bad policy and will have a profound effect in future years.

If enacted, this budget will make a radical departure with long-established tax policy and open the floodgates on the limitation and eventual total elimination of the mortgage interest deduction and State and local tax deduction. This unprecedented incursion on deductions will make an inviting target for each year's budget bill. I hereby make the following prediction—that next year Congress will once again be faced with the need for more revenue and the first place the Ways and Means Committee will look is at further decreasing deductions and lowering the income level. The death knell of these deductions will be tolled.

These deductions are the only tax relief that more young families have. Limitation of this deduction in my district will drive more young couples out of the housing market. Are we going to deny them in an effort to save a lower marginal tax rate for the richest one percent in the country? What this proposal comes down to is a back-door tax increase on two income families.

Once the principle of deductibility of State and local taxes and mortgage interest is violated, it will only be a matter of time before future tax writers lower the income floor, raise the percentage of the reduction or limit deductiblity entirely. And all this is being done so that we won't raise the rates on millionaires. I want fairness and I want a strong middle class. I say, "burst the bubble" fully to a marginal tax rate of 33 percent. Let's not have this back door marginal tax increase, which unfairly targets one segment of the population. Let's put our efforts into curbing spending, not taxing the middle class out of house and home.

Mr. Speaker, the public deficit is "Public Enemy No. 1." It stands at the root of this Nation's economic ills. There is no more important task than deficit reduction. However, I cannot, in good conscience, vote for such a package that does such violence to my constituents. This is not the best budget option we have and I will vote against it.

Mr. FRENZEL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Speaker, I thank the gentleman for yielding the time.

All of us want to go to heaven, but nobody wants to die to get there. This is what we have to look at tonight out of 1,600-page reconciliation act. In my other hand I hold what it is going to look like when it is all bound up, and when you go home and you start finding out what is in it.

I think it is a tragedy and a travesty on the American public, the people of this country that we, within a few hours, get something like this that is going to be voted upon by this body. These are the papers that we can look at and that we are supposed to know what we are doing.

We do not know what we are doing. The public is right. They are concerned and they do not want any taxes. But the least we could have done was freeze spending and start from there, and we did not do that.

I am opposed to this package, and I hope all of my colleagues will be opposed to this package.

Mr. PANETTA. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

(Mr. SCHUMER asked and was given permission to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, we have waited all night and through sunrise for this budget and this moment, but America has waited much longer.

Time and time again we have tried to tame the deficit monster. Time and time again we have failed.

But now is our last best chance, and reach for it we must.

Mr. Speaker, as the sun rears its fiery head over the Atlantic and brings day to Maine, New York, Maryland, and Georgia, let this mark the beginning of a new era, an era when we deal with our problem rather than shirk from them, an era when partisan bickering fades and bipartisan workmanship prevails, an era when we realize that whether we be individuals, companies, or governments that we must pay for our bounties and our blessings, and cannot have them for free, an era when on one shirks from his or her duty, but those who can afford more willingly pay more.

Finally, Mr. Speaker, we move into the 1990's and the 21st century to an era when America realizes that with the changes going on throughout the world and within our country that we have new challenges to meet, and an era that it can be said hand in hand we rose to meet the challenges and do the difficult things it took to keep our great land the leading country, the shining light of our world.

This vote begins that new era.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. CONYERS].

(Mr. CONYERS asked and was given permission to revise and extend his remarks.)

Mr. CONYERS. Mr. Speaker, I rise in support of this conference report to accompany H.R. 5835, the Omnibus Reconciliation Act of 1990. In final form, it should be a bill that will allow us to achieve a good deficit reduction package given the limitations placed on the legislative branch to reach agreement with a President more intent on preserving the privileges of the wealthy than on rebuilding our economy and restoring fairness.

I hoped to be voting on a package that is not only fiscally responsible, but also makes major new investments in our people, realizes the full possibilities of an end to the cold war, and fully recovers from the wealthy what was stolen from the rest of the American people during the greedy days of the 1980's.

I will admit that I doubted that achieving this goal was possible given the lingering belief on the other side of the aisle in the voodoo magic of supply side economics, the cornerstone of which created the deficit in the first place. This program failed by nearly every measure: The national debt tripled, and just its interest payments today are one of the budget's largest components; annual GNP growth was the lowest in decades; military spending, including defense fraud doubled during peacetime. Government programs were scaled back, led by a wave of deregulation and budget cuts and emphasis on mergers and acquisitions replaced what should have been the emphasis on productivity.

As we enter the decade of the 1990's, we are saddled not only with the budget deficits but with scandals in the savings and loan industry, in HUD, with DOD's multibillion dollar excess inventory and elsewhere in the Government. Human needs have been largely forgotten. Those of us who have basic democratic ideals stemming from the party of the New Deal and of this Great Society are finding ourselves having to negotiate even further cuts in Medicare, housing, and education.

The message is clear. Over the past 10 years we have become so paralyzed by budget deficits of the Reagan-Bush administrations that we have become blinded to our human and social deficits. If this political paralysis continues, it will further sap our national strength in the next century. It's time to recognize that the gamble of enriching the rich with tax and special favors has been an enormous loss to the Nation. The supply side experiment has failed.

However, under the new bipartisan plan, I believe this bill respresents a significant step in the right direction.

Mr. Speaker, as the chairman of the Committee on Government Operations, which has principal jurisdiction over reforms to the budget process, our committee in consultation with the Committees on Budget and Rules, negotiated with the Senate budget process and Gramm-Rudman reforms to ensure that the 5-year resolution can be enforced.

It is easy for me to come before this body to speak in favor of including this title into the reconciliation Act. In a very real sense we are creating Gramm-Rudman-Hollings three. I opposed the original Gramm-Rudman-Hollings law in 1985. I opposed the revisions made in 1987. And if I could have my way today I would propose a significantly different budget process reform bill.

But this title is a product of extensive negotiations with the administration at the budget summit that the administration claimed was a deal breaker. The Congress—within those confines—has made it the least burdensome and restrictive as possible.

The enforcement mechanisms set forth under title 13 include provisions that establish caps for discretionary or appropriations bills in the three major catagories: domestic, international, and defense. Any appropriations bill that breaches the cap is subject to automatic sequestration within that catagory. If the breach is enacted prior to July 1, then the sequestration is within 15 days. After July 1, it comes at the end of a session.

The caps are ceilings on budget authority, not floors. Therefore if the Appropriations Committee in any given year appropriates less in one category—such as defense—and achieve greater deficit reductions, that is permitted.

For entitlements and revenues a pay-as-you-go mechanism was also created to ensure that any new entitlement or revenue legislation will not increase the deficit.

As chairman of the Government Operations Committee—the relevant committee of jurisdiction, it was my intention to ensure some key protections in this package. First, there is nothing that in any way in intended to prevent the committees from including CBO scorekeeping estimates in the underlying text of bills creating spending authority.

Second, with full adjustment for economic and technical assumptions, the administration will no longer be able to manipulate economic assumptions and overestimate tax collections, in order to trigger a sequester to reduce the deficit. A sequester could only be triggered as a result of policy changes that result in spending increases or revenue decreases. As a result, Congress would no longer have to face the demagoguery of the White House trying to blame the Congress for causing a sequester which in reality was caused by phony numbers from OMB.

Third, the surplus in the Social Security trust fund will no longer be able to be used by this "read my lips and read my hips" President to mask the true size of the deficit. Truth in budgeting will be advanced and the elderly better protected.

The changes envisioned by this title will undoubtedly create a straightjacket approach to Federal budgeting. This probably will ensure that greater deficit reduction is achieved than in previous years. On the other hand, it will take a great deal of discretion away from Congress when it comes to setting spending and revenue policy.

For the next 3 years, and perhaps for the next 5 years, our hands will be tied tight. We will have little opportunity to raise new taxes to pay for our mounting social needs, to take advantag^ of what should be a large peace dividend, and to fund new investments needed to meet our urgent human needs and to make our work force more productive. Now we will have some ability to recoup the huge tax breaks which the wealthy have received over the past decade from supply side economics. Such restrictions truly make these budget process revisions a mixed blessing.

Mr. PANTETTA. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California [Ms. PELOSI].

(Ms. PELOSI asked and was given permission to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding this time and I rise in reluctant support of this package.

I think after all is said and done, and we say mirror, mirror on the wall, who is the fairest of them all, the answer will still come back: "ROSTENKOWSKI".

Mr. CLAY. Mr. Speaker, I rise in support of title XII of the bill. Title XII contains amendments to both the Internal Revenue Code [the code] and the Employee Retirement Income Security Act of 1974 [ERISA] relating to the use of so-called surplus penson assets and increasing the annual per capita premiums paid by single-employer defined benefit pension plans to the Pension Benefit Guaranty Corporation [PBGC].

In general, the provisions relating to the use of pension assets would increase the current reversion excise tax under section 4980 of the code from 15 percent to 50 percent. The tax would be reduced to 20 percent if the employer either established a qualified replacement plan with a cushion equal to 25 percent of the excess assets or increased benefits to participants in the terminating plan—provided that the aggregate value of the benefit increases are equal to 20 percent of the excess assets. In addition, title XII of the bill would permit, on a temporary basis, annual transfers of assets above a certain level from an ongoing pension plan to a separate account within the pension plan—a section 401(h) account. These assets must be used to pay retiree health expenses for current retirees who are also participants in the pension plan.

Since the early 1980's, Congress has been concerned about employers prematurely terminating their pension plans in order to convert pension asssets to other corporate uses. Over the years, Congress has considered a variety of approaches to the question of pension plan terminations for employer reversions. These terminations have occurred when plan assets are "overfunded"; that is, the assets of the plan exceed the assets necessary to pay plan liabilities on a particular date. Although pension plans may be overfunded at a given point in time based upon current obligations, the so-called excess assets are needed to meet the future retirement obligations of the plan. For many years, Members of Congress have advocated restricting the relatively unfettered ability of employers to terminate their pension plans prematurely by restructuring the financial incentives employers currently have to terminate their plans.

One of the major financial incentives for employers to terminate their single-employer defined benefit plans prematurely in order to convert pension assets to other corporate uses is the failure of current tax law to recapture the benefit the employer has received for the tax deferral of its contributions—and tax exemption for the earnings thereon—to the pension plan. Under current law, assets that revert to an employer upon plan termination are includible in the gross income of the employer and are subject to a 15 percent reversion excise tax under section 4980 of the code.

The excise tax on reversions was originally enacted in 1986 because the Congress believed that it was appropriate to limit the tax incentives available to the employer that maintains the pension plan. Congress recognized that the tax-deferred treatment of contributions to such plans was not intended to provide a taxpayer subsidized source of capital for general corporate expenditures. Rather this favorable tax treatment was intended solely to provide for the pension benefits of plan participants. To the extent that amounts in such plans are not used for pension purposes, Congress believed that the tax treatment of reversions should recognize that the benefits of this deferred taxation should be recaptured.

According to recent reports of the General Accounting Office [GAO], in most cases, a 15-percent excise tax is insufficient to recapture the tax benefits received. The GAO believes that the excise tax would have to be approximately 40 percent simply to recapture the average loss to the taxpayers of the tax benefit the employer has received. Therefore, it is appropriate to increase the excise tax to better approximate the tax benefits of the income deferral. As a result, the conference agreement reflects an agreement that a 20-percent excise tax is a reasonable amount of recovery to the Federal Government if accompanied by sufficient protections for the interests of workers and retirees when a pension plan terminates. If the employer chooses not to protect workers and retirees, it is appropriate for the excise tax to be substantially higher than 220 percent.

Moreover, terminations to recover employer reversions disrupt the stability of the private pension system. To the extent that the Reagan administration's 1984 reversion guidelines permit a company to terminate a plan, strip it down to bare termination liability, and then restart it without a cushion of assets, current law governing terminations for reversions also poses a grave threat to the financial stability of the single-employer pension plan termination system administered by the Pension Benefit Guaranty Corporation.

The Committee on Education and Labor and the Subcommittee on Labor-Management Relations, which I chair, has struggled with several approaches to this problem, including favorably reporting H.R. 1661, the Employee Pension Protection Act of 1989, on July 13, 1989. Throughout this process, we have had one goal: to encourage plan continuation, not plan termination. To that end, the various proposals the committee considered favorably were based on the concept that assests contributed to a pension plan ought to be used to pay pension benefits for the participants in that plan.

This approach was favored because it was consistent with the belief of most members of the committee and many others in Congress that pension assets represent the deferred wages of workers. On the other hand, others believe that pension assets belong to the employer and, therefore, any attempt to restrict their use upon plan termination is inappropriate.

After considerable study and discussion of this controversial and emotion-charged issue, I have concluded that asking the question, "Who owns the money?," is to focus on the wrong issue. Instead, the critical policy issue really is "What is pension surplus?"

Employers sponsoring single-employer defined benefit plans generally fund those plans based on a projection of what assets would be necessary to pay benefits in the future. These projections include certain assumptions concerning salary levels, retirement ages, turnover, and benefit improvements for both active workers and retirees. As a result of this focus on projected benefits and the desire of employers to fund pension obligations over an extended period of time on a relatively level basis, most pension plans have become substantially overfunded on a termination basis. Congress encouraged this overfunding in the name of benefit security by permitting tax-favored treatment for employer sponsored pension plans, while allowing employers substantial flexibility with respect to choice of funding method and actuarial assumptions used to determine tax-deductible contributions.

It is this situation, combined with the rules of ERISA concerning liability upon plan termination and the failure of the current tax law to recapture the tax benefit that employers have enjoyed, that create the financial incentives for an employer to terminate, rather than continue the plan. The tremendous upswing in corporate mergers, acquisitions, and leveraged buyouts has only increased the pressure on corporate management to terminate pension plans and strip out excess assets.

In 1988, employers first became subject to new maximum funding rules; that is, changes in the full funding limitation under ERISA and the Internal Revenue Code—enacted in the Consolidated Omnibus Budget Reconciliation Act of 1987—Public Law 100-219. These rules restricted the amount of deductible contributions an employer could make to a defined benefit pension plan generally to the lesser of the contributions they could make under the old rules, or 150 percent of current liability. Current liability is, by definition in most cases, less than what the employer would have to provide on plan termination. Thus responsible employers trying to assure that sufficient assets would be available to pay benefits, not just today but in the future as well, saw their funding flexibility redued practically overnight.

Members of the Committee on Education and Labor unsuccessfully opposed this change, arguing it was too extreme to deal with the potential abuses and would ultimately undermine the long-term fiscal soundness of the defined benefit system. Deficit reduction, however, was the objective that prevailed, not retirement policy.

Nevertheless, proponents to the new—and, in many cases, lower—full-funding limitations argued that it was really a solution to the problem of terminations for reversions. Over the long run, they asserted, the substantial surpluses in pension plans would disappear since employers would be precluded from making additional contributions for many years. In the meantime, of course, substantial termination for reversion activity continued.

Study after study has demonstrated that workers, retirees, and taxpayers are harmed when employers permaturely terminate their pension plans in order to convert pension assets to other corporate uses. Following a plan termination, current workers generally receive lower future pension benefits and retires are less likely to receive cost of living adjustments.

The conference agreement reflects consensus that it is appropriate to reduce the financial incentive for employers to terminate pension plans as a means of financing other corporate needs, and ensure that the interests of

workers, retirees, and the Federal Government are fairly protected before a company may gain access to pension plan assets.

In order to protect workers and retirees, the conference agreement provides a financial incentive for an employer terminating a defined benefit plan to maintain a qualified retirement plan following the termination or to provide benefit increases to plan participants before terminating the plan. It does so by allowing an employer to recover a greater share of the residual assets if the employer decides to establish a new plan or increase benefits, then the employer would be able to recover if it simply paid the tax.

At the same time that Congress has been struggling to resolve the pension asset reversion problem, however, some in the business community have advanced a proposal to permit employers to gain the beneficial use of pension plan assets without terminating the pension plan. These employers advocated changes in the law to permit transfers of certain pension assets to satisfy other corporate liabilities in the retiree health area. In part, this proposal was generated because the Financial Accounting Standards Board was poised to issue new accounting rules that would require employers to disclose their outstanding unfunded liability for retiree health benefits on corporate financial statements. As a result of congressional action in the 1984 Deficit Reduction Act that drastically limited employers' ability to advance fund retiree health promises, most employers have been funding their liabilities for employer sponsored retiree health plans on a pay-as-you-go basis out of corporate assets.

Members of the Committee on Education and Labor, and other Members of Congress, have been increasingly concerned about this inability of employers to utilize a tax-favored funding mechanism for retiree health benefits in light of the everescalating cost of providing these benefits. No one could have anticipated at the time employers promised these benefits that health care costs would increase as they have over the past few years. But many serious issues of entitlement retmain to be discussed and decided before Congress reopens the door for employers to prefund retiree health liabilities.

Despite their concern over health care costs, a majority of the members of the committees of jurisdiction represented by the conferees have reservations about the wisdom of permitting employers to reduce overall benefit security in the pension plan by transferring pension assets to satisfy an employer's preexisting and independent retiree health obligations. Although many pension plans may appear well funded today, those assets are needed to pay future benefits. Furthermore, if there is a downturn in the economy or a change in the employer's condition, surplus assets could be eliminated overnight.

Congress is concerned about the long-term effect on benefit adequacy as well as benefit security if companies are allowed to siphon off assets that should be used for pension benefits and benefit increases. Permitting employers to transfer pension assets to satisfy employers' retiree health obligations will increase, rather than decrease the likelihood that the deferred wages of the participants in the pension plan will be used to further employer interests, and not the insterests of workers. Instead of limiting employer access to pension plan assets to cases of plan termination, allowing transfers to retiree health plans would simply add yet another way of the employer to convert pension plan assets to its own use. I believe it important to revise the rules relating to plan terminations so that it is harder, not easier for the employer to gain access to plan assets.

Nevertheless, I understand that Congress is under great pressure to link pension plan terminations for employer reversions and retiree health. While my clear preference would be to deal with each issue separately, since the administration and the tax committees apparently want to provide some relief to employers in the retiree health area, I have reluctantly agreed to support such a proposal, provided that employer reversions are drastically curtailed.

Given the notion that we deal with both the employer reversion issue and retiree health transfers, my strong preference would have been to adopt the same provisions as were approved by the Committee last year as subtitle A of title III of H.R. 3299 (H. Rept. 101-247). Those provisions amended the fiduciary rules of title I of ERISA to permit qualified transfers of assets generally in excess of 150 percent of benefit liabilities from ongoing pension plans to special retiree health benefit accounts—so-called 401(h) accounts—permitted under the Internal Revenue code for many years to be established within the pension plan. At the same time, employers that terminated their pension plans would have been precluded, as fiduciary matter, from recovering any residual assets. Unfortunately, however, that proposal was not acceptable to the administration.

To address and balance these concerns in the retiree health area, the conference agreement contains a temporary rule allowing employers to transfer a portion of the assets set aside for pension benefits to a section 401(h) account as long as a cushion of assets in excess of the amount needed to fully fund the pension plan is retained.

In defining the maximum amount of assets an employer may transfer, the bill generally requires that the pension plan assets cannot fall below the full funding limitation after the transfer. In some cases, however, that would leave no cushion of assets over and above current liabilities. Thus the House and Senate bills provided that in no case can assets in the pension plan be reduced below 125 percent of current liabilities. Because we are concerned that benefit security will be compromised when transfers are made, the labor committees insisted that the statutory changes necessary to effectuate the policy of permitting limited transfers of pension assets to satisfy an employer's preexisting and independent obligations for retiree health benefits clearly reflect the fact that the usual strict fiduciary requirements apply to transfer. The decision to transfer assets out of the pension plan is a settlor, and not a fiduciary, function. But since the level of the cushion required under the new section 420 of the code represents the maximum amount of assets that could be transferred under the code and ERISA, a fiduciary with respect to the plan will have to determine whether, given the actual facts and circumstances with respect to the particular plan, it is prudent to transfer as much of the amount of assets above the cushion described in section 420 of the code as the law allows. The intent of Congress with respect to these transfers is clear: the general fiduciary duties of an ERISA fiduciary and the legal and equitable remedies available if fiduciary duties are breached are not overridden if and when the employer decides to avail itself of the retiree health transfer mechanism under section 420 of the code—as added by this bill. In accordance with those duties, the fiduciary must ensure that the current funding status of the pension plan and its ability to deliver pension benefits in the future are not jeopardized in any way.

In addition, the transfer cannot contravene any other provision of law. This provision is designed to clarify that the amendments to ERISA and the Internal Revenue Code authorizing the transfer do not supersede any other legal restrictions that prevent or limit an employer's ability to divert pension assets to satisfy other preexisting corporate liabilities for retiree health benefits. For instance, if the pension plan is collectively bargained, the ability of an employer to transfer assets from an ongoing pension plan to a section 401(h) account is subject to collective bargaining. An employer's ability to transfer assets is also subject to other laws, such as those that regulate government contractors.

Some of the other requirements that the committee adopted last year with respect to the retiree health transfer proposal are retained; some have been altered as part of the consensus proposal developed by the tax and labor committees of the House and Senate. Certain requirements with respect to the transfer are imposed. Since the pension assets may be transferred only to a section 401(h) account that is part of the defined benefit plan, the amounts transferred from the pension plan may only be used to pay benefits for former employees, their spouses and dependents, who are entitled to benefits under both the pension plan and the retiree health plan on the date of the transfer. To protect pension plan participants, full vesting in accrued benefits is required at the time of the transfer.

Certain protections for retirees with respect to the benefits to be paid out of the assets transferred to the 401(h) account are also required, including a provision that requires employers to maintain employer provided retiree health expenditures for covered employees at a minimum dollar level for 5 years after each transfer. Although I believe the protections the Committee on Education and Labor adopted last year for example, prohibitions on reductions of health benefits and a freezing of employee cost sharing features of the plan to the levels 3 years prior to the transfer should be adopted, I recognize that the process of consensus-building often forces us to accept less than we would have liked.

Similarly, I believe that the ban on employer reversions that the Committee on Education and Labor adopted last year is the right approach. It is simple, straightforward, and leaves the decision of how to allocate residual assets among plan participants—both active and retired—in the hands of the employer. Most importantly, it clearly removes any financial incentive for the employer to terminate a pension plan.

However, in the spirit of compromise, this bill contains provisions amending both ERISA and the code that are similar to the proposal originally adopted as part of the budget

summit agreement. Although the House rejected the summit agreement on October 4, 1990, the labor and tax committees agreed to carry forward a similar approach in our budget reconciliation bill. As chairman of the subcommittee of jurisdiction, I agreed to this approach, not because I believe that this particular proposal is the best one for solving the problem of employer reversions, but because it appears to be the only one around which political consensus can be reached at this time. And I firmly believe that further reversions must be curbed—we cannot continue the present law any longer.

The 50 percent excise tax on employer reversions adopted by the conferees is high enough so that, in addition to recapturing the average tax benefit that the employer has received, it will be a sufficient deterrent so that the reversion activity of the last 10 years may subide. In addition, the ability of an employer to avoid all but 20 percent of the tax by either establishing a replacement plan with a cushion representing 25 percent of the excess assets, or increasing benefits—with the aggregate value of all benefits increases equal to 20 percent—under the terminating plan, will create a strong incentive for continuation of pension plans for active workers and benefit increases for retirees and/or active workers in conjunction with plan terminations.

The House bill raised the level of both the excise tax—from 40 percent to 50 percent—and the cushion in the replacement plan—from 20 percent of the excess assets to 30 percent—from those levels agreed to in the budget summit agreement. The Senate bill reflected the summit agreement itself. Adoption in the conference agreement of the House figure on the excise tax and a compromise figure on the cushion will better protect plan participants and beneficiaries and encourage the continuation, rather than the termination, of pension plans. While not perfect, the provisions adopted by the Congress in title XII affecting plan terminations represents important and long overdue protections for workers and retirees covered under terminating plans.

I am far more concerned about the effect that the provisions in the conference agreement allowing transfers of pension assets to satisfy retiree health obligations will have on benefit security. I plan to carefully monitor the operation of section 420 of the code during the temrporary period it is in existence to determine whether it compromises participants' benefit security under the pension plan. And I intend to make sure that the Department of Labor carefully reviews these transfers to assure that they are carried out in full accordance with ERISA's fiduciary rules.

Finally, I am distressed that Congress has been forced to raise insurance premiums paid to the Pension Benefit Guaranty Corporation [PBGC] for single-employer plans at this time. Both the budget summit agreement and the modified budget resolution assume an increase in the annual premiums paid to the PBGC sufficient to reduce the Federal deficit by $120 million in fiscal year 1991 and $640 million in fiscal years 1991-95.

After many years of insufficient premiums, the PBGC premium was substantially increased in 1985 and again in 1987. The PBGC has maintained a deficit in almost every year of its existence. The 1985 and 1987 increases were calculated to provide the PBGC with adequate resources to meet its long-term potential obligations. The PBGC is not experiencing any short-term financial hardship. In addition, while it still is operating at a deficit, the PBGC's long-term financial health has improved substantially since premium increases were last adopted in 1987. Thus a need for an additional premium increase at this time has not been demonstrated. That is why I argued strenuously during the budget process for the House and Senate negotiators to reject the administration's demand for a higher premium. But the budget instruction to raise the premium was solely based on deficit reduction. This is the first, and I hope the last, time that the Committee on Education and Labor has been instructed to increase PBGC premiums in the absence of a demonstrated programmatic need for an increase.

It is outrageous for the administration to insist on increasing the PBGC premium as a component of the overall deficit reduction effort. Every premium increase, even when warranted, provides a greater burden on plan sponsors and increases the disincentive to establish or maintain a defined benefit plan. I strongly urge the administration to avoid any further revenue-driven PBGC premium increases in the future.

Mr. HAWKINS. Mr. Speaker, the budget agreement includes a new grant program for States to establish child care programs which meet the needs of eligible families. This grant program is designed to increase availability, affordability, and quality of child care. This component authorizes funds for direct child care services, improving quality, increasing availability of care, and establishing or expanding early childhood education and latchkey programs.

While I support the child care proposal, I believe that it falls far short of the comprehensive bill over which I have labored for the past 3 years.

The agreement does not provide for a school-based program for early childhood education and latchkey children. I believe that this is most unfortunate, since the schools are the logical partners in providing this type of care. It is my sincere hope that the funds reserved for early childhood development and latchkey programs under this agreement will be ultimately administered by the education departments in the States.

While I am concerned that the authorization level for the overall bill is $1 billion less than my original proposal, only $100 million in the first year is specifically earmarked for early childhood education and latchkey programs. This amount is insufficient to meet the tremendous demand for such services. According to recent estimates, there are more than 10 million latchkey children in the United States and that number is increasing. Just last week we heard the horrifying news account of the 4-year-old girl who was left alone while she was ill. We must provide more assistance for parents who have to work and who are also concerned about their inadequately supervised children.

I am disappointed that the agreement sets only minimum health and safety standards. Other State-established standards which directly relate to quality, in areas such as group size, child-staff ratios, and inservice training were dropped from the agreement. These standards would help to ensure quality child care which compensates for a child's disadvantaged family environment.

The agreement also deletes two other components of a comprehensive bill which would have earmarked some of the funds for an expansion of the successful Head Start Program, which is now primarily a part-day program, into a full-day/full-year program for parents who work or are in education or training.

The child care public-private partnership, with its separate authorization of $25 million to encourage business participation in child care, was also rejected by the White House for reasons which were never fully explained.

Perhaps the most troubling aspect to me in this child care certificates which can be used for sectarian care. I believe that this policy represents an infringement to the constitutional prohibition against an advancement of religion and clearly involves an excessive entanglement of the Federal Government in religion. Although there are differing opinions on this issue within the Congress, I believe that the Supreme Court must ultimately resolve this constitutional question.

While the conferees have expressed differences of opinion on the issue of church-state, we share the view that the preponderance of the funds should be spent on direct child care serivces rather than on other authorized activities. I personally believe that States should use their own funds to plan and operate child care certificate programs, rather than using funds made available under this legislation for that purpose under the guise of increasing availbility of care.

Two decades ago, President Nixon vetoed the child development programs which were designed to deliver a full range of services to the millions of children in the Nation who were suffering harm from the lack of adequate child development services, particularly during their early childhood years. We have waited too long for another bill to help enrich the lives of children.

Although this agreement is not perfect, from my standpoint, I will support it because I beleive it represents the beginning of much-needed assistance for low-income, working families who desperately need such services. We, as a nation, can ill afford to wait another 20 years to enact legislation which is so important for our children. It is my hope that this assistance will take the form of high-quality, developmentally appropriate child care rather than just custodial care for children.

Children who are at the highest risk of failure in our society must receive the kind of quality care that will enable them to succeed despite adversity. The future of this Nation belongs to our children. Without quality preschool and educational opportunities, the future looks bleak—not only for our children, but for the Nation as a whole.

Mr. KLECZKA. Mr. Speaker, today the House will vote on the conference agreement for H.R. 5835, the Omnibus Budget Reconciliation Act of 1990. This bill is the final version of the $500 billion deficit reduction package negotiated by Congress and the President. Everyone will have a share of the sacrifices necessary to achieve this deficit reduction, but it is the fairest agreement we can expect to approve in order to put our fiscal house in order.

The original budget summit agreement was rejected by the House because its provisons were unfair and unacceptable. The budget

reconciliation agreement corrects the harsh inequities in the failed summit plan.

One of the major problems with the summit plan was the huge cut slated for the Medicare Program—about $60 billion—that unfairly burdened the Nation's elderly. The reconciliation agreement removes two-thirds of the added out-of-pocket costs for the elderly. The deductible will increase only to $100, rather than the $150 deductible contained in the failed agreement. Furthermore, the annual increases in the Part B premium will be lower and slower than in the rejected plan.

Other inequities are corrected in the reconciliation agreement. These include removal of the 2-cent tax on heating oil and the 2-week delay for receiving unemployment benefits. In addition, the Budget Act reduces the gasoline tax increase from 12 cents to a nickel per gallon.

As for the fairness in the revenue provisions, I am pleased that the Democratic majority has ensured that U.S. taxpayers are treated fairly. Those individuals who are better able to afford the added tax burden are asked to contribute more. While tax rates are unchanged for low- and middle-income earners, a new 31 percent tax rate will affect higher income persons and the benefit of their deductions will be trimmed.

Throughout this debate, I have voiced my opposition to unfair hits on elderly and middle-income Americans. The original budget summit plan would have increased taxes for those earning between $20,000 and $50,000 by 3 percent to 3.5 percent. As for wealthy taxpayers earning over $200,000, the summit pact would have only increased taxes by 0.3 percent.

The budget reconciliation agreement contains provisions to correct these tax inequities. Although middle-income taxpayers earning $20,000 to $50,000 will pay an average of 2 percent more in taxes, those earning $200,000 and up will be paying 6.4 percent more.

Reforms in our budget process were included in the final agreement. These include requirements that future revenue or spending legislation be made budget-neutral; that is, we will have pay-as-you-go procedures. Also, the Social Security surplus is removed from budget calculations. This practice has masked the true size of the Federal deficit.

Mr. Speaker, this deficit reduction agreement is long overdue. The Nation's taxpayers want action. The Budget Reconciliation Act is far from perfect but it is a leap in the right direction for a sound economy and an improved standard of living. I urge my colleagues to support the Budget Reconciliation Act.

Mr. COYNE. Mr. Speaker, today we are voting on a bill which will provide the American people with the long-awaited 5-year deficit reduction of $500 billion. This proposed budget will distribute the burden of this unprecedented deficit reduction package in as fair and equitable a manner as any other proposal which has surfaced to date.

Achieving a 5-percent reduction in programs and a 2.5-percent increase in revenues should not be accomplished at the expense of the elderly, the working class, and the unemployed when the deficit can largely be attributed to the nearly 200 billion dollars' worth of annual interest payments on debt of $3.2 trillion.

My colleagues will recall that Federal indebtedness was only $908 billion at the end of fiscal year 1980, and will grow to $3.5 trillion in the coming year. Recall also that interest payments on the Federal debt more than doubled—going from $75.2 billion in 1980 to $170.1 billion in 1990. National defense showed a similar increase of 228 percent—going from $134 billion in 1980 to $303 billion in 1990.

This staggering indebtedness is the legacy from a decade of supply side economics, lack of attention to the emerging savings and loan disaster, and unprecedented defense expansion.

Mr. Speaker, this is not a tax-and-spend Democratic budget; 68 percent of the deficit reduction comes from spending reductions, only 32 percent from tax increases. This mix between spending reductions and revenue increases is nearly identical to that found in the summit package which was endorsed by the President and the leadership from across the aisle.

The tax changes are much more progressively distributed than were the original budget summit changes. This improved distribution is achieved by having people with earned incomes between $53,100 and $125,000 contribute more to the Medicare hospital insurance fund, reducing itemized deductions for families with over $100,000 in taxable income, limiting the tax reduction associated with personal deductions for couples earning between $150,000 and $275,000, imposing luxury taxes on boats, planes, and expensive automobiles, holding the increase in the gasoline tax to 5 cents, and raising the top statutory tax rate from 28 to 31 percent.

The burden associated with undoing this decade of high spending should not be borne by lower income families. They have already paid their share through lower real incomes in the last 10 years. Income growth during this period clearly favored the wealthiest: The average real income of the top 5 percent of the population increased from $120,253 to $148,438, while the average real income of the lowest 20 percent fell from $9,990 to $9,431.

This alternative attempts to distribute the burden in such a manner so as to restore fundamental fairness and equity. The October summit agreement would have people with over $200,000 of annual income paying a lower proportion of their income—25.6 percent—than families earning less than half as much income. The Democratic alternative would restore equity and fairness by having the wealthiest pay proportionately more in taxes than families with lower incomes by raising the effective tax rate to 26.8 percent for filers with incomes in excess of $200,000.

It accomplishes this movement toward a fair and just distribution of tax burden by allocating the changes in taxes in a far more progressive manner than the summit proposal. At the lower end of the distribution, today's alternative would offer a small decrease—2.1 percent—in the tax burden of those least able to afford a decrease in their after-tax incomes; the October summit would have families with under $10,000 incomes give up an additional 7.6 percent of their already meager incomes. The summit would require the wealthiest, that is, incomes over $200,000, to give up only 1.7 percent of their more than adequate and generous incomes, while today's proposal would ask for a progressivity-restoring 6.3 percent.

The change in the rate structure amounts to a decrease in taxes for many people while increasing the rate for only the wealthiest filers. Changing the rate structure still will keep the maximum rates considerably below the 50-percent rate which was in effect as recently as 1986 and dramatically below the 70-percent rate which was in effect until 1980.

Mr. Speaker, I do not need to stress the importance of deficit reduction. Reducing the deficit will allow the economy to grow, free future generations of an onerous burden, and restore rationality to the budget process. We have waited too long to enact a budget; we must get on with the work our constituents sent us here to do.

I urge my colleagues on both sides of the aisle to support the amended proposal, now. It is consistent with the President's deficit reduction goals, moves us toward a budget for the entire Government before Saturday at midnight and represents a workable, doable, and realistic way to restore faith in the American democracy and the Congress.

Mr. DORNAN of California. Mr. Speaker, I rise today in strong opposition to the Rostenkowski Recession Act of 1990. And that's exactly what this bill is.

If Congress passes this huge tax hike—the biggest in history—there is simply no way we will avoid a recession; no way. And we all know what recession means, Mr. Speaker, lower tax revenues, higher unemployment with an attendant increase in welfare and unemployment insurance costs. Higher interest rates and a subsequent increase in the Government's cost of borrowing. In short, this huge tax hike will ensure that the deficit gets larger, not smaller.

Mr. Speaker, anyone who really believes that this plan will reduce the deficit by $500 billion over 5 years is deluding themselves. There is no way spending as a percent of GNP will be just over 18 percent 5 years from now. The spending cuts in this bill are fraudulent and I predict right here and now that they will never occur. Why? Because we are asking Americans to put their trust in the Democrats in Congress, or people who, in Mr. DURBIN's own words, overspent by $200 to $300 billion the last 10 years. Are we to believe that they are going to become fiscal conservatives overnight?

These Democrats are the same people who, while professing alarm at the growing size of the deficit, refused this year to cut spending across-the-board except in two cases, despite many amendments reducing spending bills anywhere from 7 percent to $19.90. My colleague from Minnesota, Mr. PENNY— who is a real fiscal conservative—offered amendments to reduce spending by 2 percent across the board to 11 different appropriations bills. Only two passed, those to the DC appropriations bill and the legislative appropriations bill. These were easy votes to cast precisely because they amounted to very little in the way of savings and because neither bill had a constituency outside the Washington Beltway.

The people we are putting our faith in to cut spending, Mr. Speaker, are the same people who call a frivolous program like the National Endowment for the Arts critical, to quote my colleague from Oregon, Mr. AUCOIN. Is the NEA critical, Mr. Speaker? No. Defense is critical. The FAA is critical. The FBI is critical.

Social Security is critical. But the NEA, Mr. Speaker? Critical? What does that say about how priorities are set on the tax-and-spend side of the aisle.

Another example. Back in 1985 President Reagan proposed 44 special interest and corporate welfare program terminations in his budget. The Democrats terminated only one, a block grant progrm, and almost reversed that decision a few months later, and these folks are going to control spending?

Anyone who thinks interest rates will fall under this plan is also in need of counselling. The economic assumptions underlying the package are a joke, a bad joke. The authors of this fiasco want us to believe that the largest tax-increase in history will trigger a doubling of econoic growth between 1990 and 1991, and a tripling by 1992. Will Alan Greenspan lower interest rates? He will be under pressure to do so but that will be a mistake. Easy money in a low-growth, high-tax environment would only cause a rise in inflation, and a that point this whole house of cards will collapse. Once inflation increases, both foreign and domestic creditors would demand a premium in the form of higher long-term interest rates. In other words, interest rates will go up, not down.

Remember, most economists claim interest rates are too low as it is. Foreign interest rates are now well above U.S. rates, which makes it hard for us to attract the needed capital to finance our debt. If Greenspan lowers rates by a significant amount, we will lose even more foreign capital. To get it back, Greenspan will have to raise interest rates. Again, higher interest rates are the likely outcome of this policy. How's that supposed to help the situation.

And finally, anyone who believes that tax-and-spend Democrats will be satisfied with $190 billion in new taxes is living in a dream world. This bill has merely whetted their appetite for more. Indeed, my colleague from New York, Mr. OWENS was here in the well just yesterday telling us, or more accurately warning us, that the tax-and-spend crowd would be back with even more taxes on the rich. He was so excited he could hardly contain himself. Indeed, I have never seen him so ebullient, and that observation is certainly not limited to the gentleman from New York. The glee with which the Democrats in this Chamber have taken in confiscating more of the taxpayer's hard-earned money is certainly a site to behold. They are almost like gangsters after a heist, lurching about the room hugging each other and joyously throwing money in the air.

To my Republican colleagues I say this. We are supposed to be the ones to put a stop to this heist, remember? We are the good guys. In the great tax heist the Democrats are Al Capone, we are Elliot Ness.

And what guarantees do we have that the promised spending cuts will materialize? No offense, Mr. Speaker, but the word of the Democrats has not been worth much in the past. I think we all remember the TEFRA debacle, when President Reagan was promised $3 in spending cuts for every $1 in taxes. The taxes were collected but the spending cuts never materialized. Are we going to see a repeat of that? Probably. There is certainly nothing in this bill to prevent it from happening again. No balanced budget amendment. No line-item veto. No enhanced rescission authority. No mid-session Gramm-Rudman sequester. No elimination of current services budgeting. No cap on overall Federal spending growth. Nothing. Nada. Zip.

Another particularly offensive aspect of this bill is the "family tax," which would directly add $635 to the tax bill of some high earners for each child claimed as a dependent. I have already had several phone calls from some of my constituents with large families saying that this bill would have a devastating impact on them, and these are not rich families, Mr. Speaker. I think if you ever spend any time in southern California you know this is true.

Throughout this debate, the Democrats have tried to portray themselves as Robin Hood, robbing from the rich and giving to the poor. In reality, however, being equal opportunity thieves, they are robbing from the middle-class as well as the rich and giving the money to the richer, that is, the bureaucracy. Is there a richer institution in America than the Federal Government, Mr. Speaker? No. In fact, the Federal budget of the United States is larger than the entire GNP of what was West Germany. Are Americans really crying out for a wealthier bureaucracy? Can the bureaucracy do a better job of spending money than those who worked to earn it? This entire debate comes down to this: Who is going to control the Nation's output—the Federal bureaucracy or the people. I'm lining up with the people.

Let's take Joe Sixpack. He's had a hard day on the job and gets home a little bit testy because he had to pay more at the pump to fill his car up with gas. So he tries to relax with a cigarette and beer, both of which cost him more. Then he turns on the TV news and sees the Legal Services Corporation shilling for abortionists, the NEA funding more bigoted art, Ways and Means Committee members are studying the flora and fauna at taxpayer expense in the Caribbean—the same folks who wrote this turkey—and the Congress-driven savings and loan fiasco costing even more money. Is Joe Sixpack supposed to say, "This is all good stuff, now I see why my taxes were raised." Is he supposed to be thankful? Well that is exactly what we are asking of him, because you know as well as I do, Mr. Speaker, that any additional tax revenues will be used to fund the lowest priority programs, not the highest. We already have more than enough revenue to cover those.

Now the Democrats will again tell you that this is essentially a soak-the-rich plan. I say it should be a soak-the-bureaucracy plan. In any event, what they don't tell you is that they have again done away with indexing for a large number of taxpayers. The plan proposes to phase out tax deductions for upper income taxpayers, starting at a threshold of $100,000 a year, but the threshold is not indexed. This means that more and more taxpayers will be pushed over the threshold each year. A built-in tax increase that is going to cost taxpayers some $11 billion over the next 5 years.

But the most outrageous aspect of the Rostenkowski recession package is the provision requiring that any future tax cut has to be revenue neutral. Who will determine revenue neutrality? Incredibly, it will be congressional staff, which has proven itself incapable of accurately predicting the effects of fiscal policy changes. That is because around this place ideology even drives economic analysis. The continued use of static economic analysis—which assumes that people's behavior doesn't change with changes in fiscal policy—instead of dynamic analysis will preclude Congress from ever passing progrowth tax cuts. This provision alone is enough to vote against the bill.

Mr. Speaker, we have a simple choice to make. Either we are going to take a smaller percentage of a large and growing economic pie, which is what Republicans want, or we are going to take a larger and larger percentage of a small and shrinking economic pie, which is what my Democrat colleagues want. That is the choice. If we pass this bill today, the recession that is sure to come as a result will have Made in Washington stamped all over it.

Thank you, Mr. Speaker.

Mr. SCHULZ. Mr. Speaker, I rise in reluctant opposition to the so-called deficit reduction package. This bill should be defeated because it does nothing to change the structural budget problems plaguing America; because it fails to achieve real spending cuts; and, because it grants billions in tax breaks to selected industries of powerful Congressmen.

The measure before us does nothing to control spending. There is no line-item veto, no enhanced rescission or deferral authority for the President, or no enforcement mechanism to ensure Congress keeps its promises of future spending reduction.

What about the supposed cuts in spending we are hearing about? It's a sham, Mr. Speaker. Under this proposal discretionary spending will increase by $132 billion. That is $132 billion of our tax dollars for Congress to squander on its own pet projects. What about Medicare cuts we have heard screams about? They, too, are not cuts, but a reduction in massive expected cost increases.

In addition to the numerous tax increases in the package, there are special tax breaks for ethanol producers and energy interests totaling over $2.5 billion. In testimony last year, a leading proponent of ethanol from the Senate, testified that tax subsidies would no longer be needed once the price of oil exceeded $30 per barrel. Yet, ethanol subsidies have been continued at a huge cost to the Treasury. In fact, while the price of corn has dropped across the land, ethanol prices have skyrocketed right along with the price of oil. Taxpayers are being had in this reconciliation bill. Let there be no mistake about it.

The taxes in the bill are also a product of smoke and mirrors. A new top rate of 31 percent is supplemented by limits on itemized deductions and the personal exemption. In reality, tax rates on those making over $100,000 are being increased far beyond the 31 percent rate. The most important factor about this however, is the fact that a majority of small business owners pay taxes at the individual level, thus small business will be hit and hit hard by this bill.

The level of taxes in this bill, the largest tax increase in history, are also of such magnitude to send us over the brink into a recession. Make no mistake about it, gasoline taxes will immediately be felt across the economy. Airlines are already reporting huge losses and travel and transportation costs are skyrocketing. In fact, inflation caused by the imposition of the broad range of excise taxes could offset any possible reduction in interest rates by the Federal Reserve.

The economic impact of several of the taxes causes me great concern. Consumers

are likely to buy jewelry and furs overseas to avoid a new 10 percent excise tax. The life and property and casualty insurance companies will bear an additional burden of well over $8 billion placed on them when private groups are questioning insurance company solvency. Thousands of my constituents are employed by these businesses. One particular provision increasing the interest rate on tax deficiencies of corporations could be a death knell for a major employer in my congressional district. Most of these taxes on selected products or industries don't make much economic sense. They distort the market, are uncompetitive, and should be realized for what they are: Pure and simple revenue grabs.

Mr. Speaker, all through this process, I have kept an open mind. I have been willing to accept taxes as part of a long-term agreement which would make us more competitive in world markets.

The bill before us does not cut spending; it does not promote economic growth or competitiveness; it is the wrong step to take at just the wrong time for the economic health of our Nation. I urge my colleagues to join me in opposing this measure and calling on the conference to enact a measure which will control Federal spending.

Mr. HALL of Ohio. Mr. Speaker, finally the House is full of the call for sacrifice—everybody's decided it's time for somebody else to make one.

I went home last weekend, and I'm here to report that the people of Dayton, OH, are mad at the Congress, and they're mad at the President. They want us to quit bickering, and quit trying to score political points off each other, and get on with governing this country.

I'm pretty mad, myself, and I'm really embarrassed with what we've been going through for the past few weeks.

We've missed or extended every deadline. Just when the American people think the fiscal clock has finally run out, the Congress adds a few more minutes to the hour. Only in Washington does the 11th hour seem to go on for weeks.

I feel sorry for the people who are trying to follow this process by watching C-SPAN. They see the same things happening over and over. They hear the same speeches over and over; most of the time, it's the same speakers. We ought to tell the American people, "Sorry, Congress has been showing reruns for the past month." We ought to do ourselves a big favor and turn the cameras off. We'd probably get more done.

But for those who are watching this on TV, let me tell you what's going on. This is the end of the budget process. It's been like a 10-month long root canal operation. But the novocaine ran out 30 days ago. We've gone from a thousand points of light to a thousand bones of contention. Everybody's got a problem, everybody's got an angle, everybody needs a loophole, everybody is making a speech, and everybody's got the answer.

Actually, I have a hard time with the phrase "budget process." Calling it a process implies that there's a method to this madness. There isn't: It's just plain madness.

The worst thing we're doing is treating Federal employees and American taxpayers like pawns in a game of chicken we're playing up and down Pennsylvania Avenue. That's not fair, and that's not what the voters sent us here to do. The American people sent us here to govern, not make them the victims in the battle between the President and Congress. I've introduced a bill that would avoid the Government shut-down if we haven't passed our appropriations by the end of a fiscal year. It would still be a deadline, we'd still have to meet it, but millions of innocent Federal Government employees wouldn't be faced with furloughs, and the Government would not shut down.

It just doesn't make sense to legislate with a gun to your head. There are hungry children in America, Mr. Speaker, and we don't seem to be able to feed them. We've got one of the highest infant mortality rates in the industrialized world. At-risk women and children should be a priority but they aren't. We don't have the money, and we don't have the time.

We ought to vote for this bill today, and get on with business, and try to come back here next year and think a little less of ourselves and a little more for the people who sent us here.

Mr. SYNAR. Mr. Speaker, today I am voting for the final reconciliation bill implementing the budget. While the budget does not include everything I would like to see in an agreement, I recognize that governing requires compromise. I do believe that the extension of these negotiations provided us with a significantly better outcome than the budget summit produced. This agreement is much fairer to my Oklahoma constituents and to all working Americans.

Three weeks ago during the first vote on the budget summit agreement, I stated that I did not anticipate an agreement that satisfied everyone, because I knew that everyone would have to sacrifice. This budget does contain provisions that will not be acceptable to various individuals and groups. If offered individually, I would not agree with items such as an increase in the gas tax. In reality, no agreement was possible or could get enough votes and secure the President's signature unless these provisions were included as part of an overall package. I did expect a deal that spread the burden among all income groups in a more evenhanded manner, contrary to the original agreement. This compromise goes a long way to achieving that goal.

The agreement significantly lessens the adverse impact on elderly Oklahomans. Medicare beneficiaries will not have to bear a unfairly high increase in premiums. Rather, the highest income taxpayers will be required to contribute more to the cost of the Medicare system by the application of Medicare taxes to higher wage earners. Taxes on luxury items are increased. The top tax rate has been raised. These provisions equalize the burden of deficit reduction which is so urgently needed.

Part of the price of compromise is the inclusion of provisions with which I do not agree. I have major problems with the lengthy amendments contained within this reconciliation bill which affect the budget process. We are acceding to the administration's wishes in a complaisant manner. This issue does not grab headlines and can not be explained in the ever-popular 30-second sound bite. I think it is important to stress my objection to these amendments.

Some of my colleagues and membes of the public feel that objecting is a futile exercise. I would like to point out, however, that these amendments to the budget process tend to validate the complaints against us that as Members of Congress we can not govern. We continue to set up elaborate systems of procedure that eliminate the need to vote on specific issues. Automation is popular throughout industry, but I think we are carrying the concept too far as it applies to our jobs. At some point, the public may conclude that we truly are unnecessary.

The changes contemplated by the budget process amendments significantly weaken congressional authority with respect to policy decisions within the budget process. As an institution, we continue to give up our inherent powers while receiving nothing in return. The bill sets up a process that for the next 3 years locks in spending caps for three separate categories: Defense, domestic, and international. We are eliminating our ability to take care of national priorities on a comprehensive and cohesive basis. Instead of being able to set national priorities by evaluating all programs on an equal basis, we now have evaluations only within categories.

The poor and the needy will now have to compete with each other for funds instead of arguing about the wastefulness or obsolescence of certain weapons and other cold war programs. We do not seem to be concerned about the possibility that we may be fueling intergenerational fights over levels of funding. In order to pursue new initiatives in education or health care for the elderly, food supplemental programs may have to be reduced. This system also lessens the importance of constituent input.

Once again, we are tyring to correct what is and has been proven to be a defective system. Gramm-Rudman has never worked and yet we continue to tinker with it by adding about 100 pages of amendments to it and the budget process. These changes require more contemplation, full and open hearings, and extensive discussion. We are in danger of becoming number crunchers.

I am not happy lending my vote in support of these amendments but feel that the budget decisions linked to these amendments are essential and, at this time, take precedence. I warn my colleagues, however, not to be surprised next year when these amendments come back to haunt us.

Mr. LAFALCE. Mr. Speaker, I rise today in strong support of the child care provisions included in the conference report on H.R. 5835, Omnibus Budget Reconciliation Act of 1990. After years of deliberation on the issue of child care, I am very pleased that the Congress and the President have been able to come together on a broad plan to address the diverse needs of struggling families by providing them with options which will accommodate their needs and desires.

While there has been much debate about how the Federal Government should respond to the considerable needs of America's struggling young families, there has been virtual unanimity that the rising demands and increasing challenges facing those families are a Federal concern. Fortunately, the debate progessed beyond the limited, although legitimate, issue of day care.

The American family has truly undergone remarkable change. As a result of economic necessity and increased opportunity, many more women have entered the work force; and today, double paycheck and single parent

families are common in America. The fact that more than half of all women with children under 1 year of age are in the work force underscores the gravity of the change. As a result of these developments and pressing economic demands, many families have had difficulty in making ends meet, narrowing their options for the day to day care of their young children.

The history of the child care debate has reflected this disconcerting situation and revealed the diversity of families' needs and desires—needs and desires that cannot be met by any single limited approach. Indeed, the issue is far more complex than the availability, quality, and affordability of day care.

I have consistently maintained that Federal child care legislation should be targeted to those families most in need and include a wide range of assistance. Most importantly, I feel very strongly that Federal assistance should accommodate parental desires—whether public, home-based or religious-based care; further, child care itself should not be favored over parents who choose to care for their own child or children full time.

I believe the child care proposal included in H.R. 5835 includes the necessary mix of broad tax relief for lower income families with young children and a wide range of Federal assistance to expand and improve the options available to parents. First, let me begin by saying that I am pleased that the assistance provided in this proposal is well-targeted to serve those Americans who are most in need, reversing the unfortunate trend of the 1980's toward decreasing progressivity in our Tax Code.

During the past decade, we witnessed the shifting of tax burdens away from the wealthy and onto those who are less able to pay. While Federal tax burdens were reduced on upper income households, the burden on low- and middle-income families grew. Meanwhile, the average hourly wage for American laborers fell steadily in real terms. Typical of an economic climate unfavorable to the weak, these developments have hit low-income families and their children the hardest. The tax provisions in the package, including a substantial increase in the earned income tax credit, a new supplemental tax credit for families with very young children and the refundability of the dependent care tax credit will provide long overdue tax relief and ease the financial burden of raising young children.

For the increasing number of dual paycheck and single parent families struggling to make ends meet, the new HHS block grant program to States will provide funds to augment child care services which will broaden the spectrum of services available and improve parents' confidence in their soundness.

Most importantly, choices about child care will rest with the parents. I am confident that the vouchers required under the new HHS block grant program will prove both effective and equitable, affording parents the necessary discretion in the choice of child care providers. And, States will be allowed flexibility with respect to regulations so as not to limit parents' options—whether a child care center, religious organization, a trusted home provider, or a child's relative.

The legislative approach embodied in this child care agreement represents a significant improvement over the original "ABC" child care proposal to create a Federal child care system. I believe this blended and flexible approach to assisting families with young children will prove effective and equitable. Clearly, this legislation represents a necessary and appropriate step in support of these families in our increasingly challenging world.

Mr. RAHALL. Mr. Speaker, as the chairman of the Subcommittee on Mining and Natural Resources, and a representative of the great State of West Virginia, it gives me distinct pleasure to note that the Abandoned Mine Reclamation Act of 1990 is part of the Omnibus Budget Reconciliation Act of 1990.

Prior to the enactment of the Surface Mining Control and Reclamation Act of 1977, in the absence of adequate regulation surface coal mining operations were often undertaken without due regard to the environment. By the 1970's, it became increasingly clear that the proliferation of acidified streams, highwalls, refuse piles, open mine shafts and other hazards associated with past coal mining practices could not be ignored. On August 3, 1977, President Carter signed into law the Surface Mining Control and Reclamation Act. The act set detailed mining and reclamation standards for coal operators. Moreover, it established an abandoned mine reclamation fund financed by a fee assessed on every ton of coal produced to provide for the restoration of inadequately reclaimed land that had been mined in the absence of effective regulations prior to August 3, 1977. The authority to collect these fees expires during August 1992.

The legislation before us today would extend the reclamation fees collection authority through to September 30, 1995. With some exceptions this is the same version of the bill I introduced, H.R. 2095, as reported by the Committee on Interior and Insular Affairs on September 13, 1989, that passed the House on October 23, 1989. It includes provisions of H.R. 538, introduced by Representative FRANK MCCLOSKEY, and H.R. 1315, sponsored by Representative CHRIS PERKINS. On October 16, 1990, the House again passed H.R. 2095 as part of H.R. 5835, the Omnibus Budget Reconciliation Act of 1990.

In conference with the Senate, the text of H.R. 2095 was retained except for six modifications and one addition. They are as follows: First, the authority to collect reclamation fees was extended through September 30, 1995, rather than the year 2007. Second, a provision that provided for modified reclamation fees after 1992 in States which have certified the completion of all abandoned coal mine projects was dropped. Third, provisions that would have expanded the scope of the emergency program were deleted. Fourth, while the House bill limited the objectives of the fund to the first three priorities listed in current law, the agreement maintains the current law list of project priorities. Fifth, the requirement that the Secretary promulgate environmental standards for reclamation projects was deleted. Sixth, the bill's authorization of a new abandoned minerals and mineral materials mine reclamation fund was dropped. Finally, an amendment relating to certain projects in certified States was adopted.

Besides extending the authority to collect reclamation fees, the Abandoned Mine Reclamation Act of 1990 contains several other important initiatives which I will highlight.

First, the bill seeks to concentrate a greater amount of resources toward combating the highest priority abandoned coal mine reclamation projects. This goal would be accomplished by annually allocating 40 percent of the secretarial share of the fund to program States and tribes until they complete all of their priority 1 and 2 abandoned coal mine reclamation projects.

Second, the bill would provide additional resources to combat abandoned coal mine hazards by enabling interest to accure to unappropriated amounts in the abandoned mine reclamation fund and by strengthening reclamation fee compliance.

Third, the legislation explicitly recognizes the severe public health hazard associated with water supplies contaminated by abandoned coal mine workings. In many areas of the Appalachian region, ground water resources used for household water supply have been contaminated as a result of drainage from abandoned underground and surface mines. It is my view that when past coal mining practices have degraded ground water quality or depleted ground water quantity to such an extent that citizens no longer have an acceptable supply, an adverse impact on health, safety, and the general welfare is self-evident. It is also my understanding that under OSM policy reclamation projects involving water supply may be undertaken as they relate to the objectives and priorities of the fund. As such, a water source contaminated as a result of pre-August 4, 1977, coal mining should be treated as a pirority 1 project if the contaminated water is posing an extreme danger to public health, safety, general welfare, and property, or, as a priority 2 project if the contaminated water is presenting a public health, safety, and general welfare hazard in the same fashion as these priorities apply to other types of projects such as burning refuse piles, landslides, and subsidence. The exception made by this legislation is that contamination of the water is no longer limited to having had to occur solely during the period prior to August 1977.

Fourth, the bill acknowledges the need to engage in the comprehensive abatement and treatment of acid mine drainage. Thousands of miles of Appalachian streams and countless watersheds have been degraded, and aquatic life destroyed, by acid mine drainage. The long-term impact of this problem on the quality of life, on wildlife and on recreation is devastating. With this legislation, the States will be able to leverage the use of abanonded mine reclamation funds to combat acid mine drainage.

Fifth, the bill seeks to address high-priority sites abandoned after enactment of the 1977 act prior to the promulgation of final implementing regulations. Tens of thousands of acres of land which were mined during the interim program period remain unreclaimed due to the lack of a Federal bonding requirement during that time. In addition, as a result of a rash of surety company insolvencies following that period, a new generation of abandoned mine sites unforseen by the original law were created. In many instances, the public health and safety threat posed by these areas exceed those of pre-August 3, 1977, sites.

Sixth, the bill would keep faith with the Law's unfulfilled commitment to provide adequate resources for the Rural Abandoned Mine Program. This program serves a distinctive purpose, and addresses slightly different problems than what is undertaken by the

States through their Abandoned Mine Reclamation Program grant allocations. Under the bill, the financial resources available to RAMP will be dramatically increased. I would further note that this legislation clarifies the authority of the Soil Conservation Service to undertake RAMP projects on a hydrologic unit basis.

Mr. Speaker, at this point I insert into the RECORD an overview of the Abandoned Mine Reclamation Act of 1990:

ABANDONED MINE RECLAMATION ACT OF 1990

OVERVIEW OF THE LEGISLATION

Allocation of the Fund

Under the bill, as with current law, 50 percent of the reclamation fees collected in a state or tribe with a federally approved abandoned mine reclamation program would continue to be allocated to the state or tribe of fee origination. The remaining 50 percent of reclamation fees collected would continue to be dedicated to the Secretary's discretionary share of the Abandoned Mine Reclamation Fund. However, the legislation provides for the Secretarial share to be augmented by amounts earned from interest authorized to accrue to the unappropriated balance in the entire Fund.

State and Tribal Share

As under current law, the legislation provides for the state and tribal share of the Fund to be used by states and Indian tribes with approved abandoned mine reclamation programs for reclamation projects and to defray the administrative costs of their programs.

Current law also authorizes a state to deposit 10 percent of it state share funding on an annual basis into a special trust fund established by the state for the purpose of undertaking reclamation projects after 1992, the year in which the current law authorization for the collection of the reclamation fee expires. The legislation maintains this provision, but changes the date to 1995, the new expiration date for fee collections. In addition, the bill would authorize a state, at its option, to establish an acid mine drainage abatement and treatment fund with the 10 percent deposit instead of maintaining it for use after 1995. The purpose of this special fund would be to enable the state to undertake comprehensive acid mine drainage abatement and treatment projects within qualified watersheds. The bill make no change to the current law provision authorizing a state to use up to $3 million of its state share funds to establish state coal mine subsidence insurance programs.

The legislation allows a state to use 30 percent of its annual grant to undertake eligible projects relating to contaminated water supplies, specifically authorizes the states to address these situations where the contamination predominantly, but not fully, occurred as a result of coal mining practices which occurred prior to the date of enactment of the Surface Mining Control and Reclamation Act of 1977. These types of projects would be undertaken as they relate to the priorities set forth in the law. This comports with current Office of Surface Mining Reclamation and Enforcement policy, with the exception that under present law the contamination must be shown to have occurred entirely prior to August 3, 1977.

The legislation would also authorize a state to use its share to reclaim certain coal mine sites abandoned after the enactment of SMCRA. Under the provision, the use of these funds would be limited to sites left unreclaimed during the "interim" federal regulatory period immediately after enactment of the SMCRA, or for sites left unreclaimed as a result of the surety company of an operator having become insolvent during the period between August 4, 1977, and the date of enactment of the Abandoned Mine Reclamation Act of 1990. Further, funds under the provision could only be used if the sites have the same or more urgent reclamation priority than pre-1977 "priority 1 and 2" sites.

Secretarial Share

Under the bill, as under current law, after the allocation of the state and tribal shares, the remaining amounts in the Fund (the Secretary's share of the reclamation fees plus all interest which would accrue to unappropriated balance in the Fund) would be available for: the Rural Abandoned Mine Program (RAMP), the Small Operators Assistance Program (SOAP), emergency reclamation projects, reclamation projects in states and on Indian lands without approved abandoned mine reclamation programs, federal administrative costs and for providing an additional allocation of funds to states and tribes with approved abandoned mine reclamation programs as a supplement to their annual grants.

However, the bill would make several changes to current policy governing the use of the Secretary's share of the Fund. Perhaps the major change made by the bill is the earmarking of funds for RAMP by allocating 20 percent of the Secretarial share of the Fund (including interest) on an annual basis for the program. Current law provides for "up to one-fifth" of the amount in the Fund to be transferred to the Soil Conservation Service for RAMP, a provision that provides no set allocation or earmarking of the Fund.

The bill would also allocate 40 percent of the Secretarial share of the Fund (including interest) on an annual basis for the purpose of providing a supplemental allocation to states and tribes with approved abandoned mine reclamation programs and which have not completed all of their high-priority public health and safety related projects (referred to as "priority 1 and 2" projects).

In addition, the legislation would authorize the use of the Secretary's share of the Fund, after all other obligations are met, to reclaim certain coal mine sites abandoned after the enactment of SMCRA. Under the provision, the use of these funds would be limited to sites left unreclaimed during the "interim" federal regulatory period immediately after enactment of the SMCRA, or for sites left unreclaimed where the surety company of an operator having become insolvent during the period between August 4, 1977, and the date of enactment of the Abandoned Mine Reclamation Act of 1990. Funds under the provision could only be used for "priority 1 and 2" equivalent sites. As the program states would also have this authority, the Secretary could undertake these projects in non-program states and Indian lands, or, for that matter, in program states in a fashion similar to how the emergency program is operated in program states that have not assumed responsibility for emergency projects.

The final provision of the legislation relating to the allocation of the Fund provides for a minimum allocation of $2 million annually to states and Indian tribes with approved abandoned mine reclamation programs which have not completed their "priority 1 and 2" sites.

Certification Program

The legislation would maintain, albeit in a much more detailed fashion and with certain modifications, the current law authority which provides for a state or Indian tribe with a federally approved abandoned mine reclamation program to certify the completion of all abandoned coal mine reclamation projects and then direct its state or tribal share funds toward alleviating problems stemming from abandoned non-coal mining. Once certified, a state or tribe would not be eligible for Secretarial share funds.

Reclamation Fees

The bill would reauthorize the collection of the current reclamation fees (35 cents per ton of surface mined coal, 15 cents per ton of deep mined coal and 10 cents per ton for lignite) through September 30, 1995.

Miscellaneous Provisions

Pre-certification non-coal sites: Current law allows for expenditures to be made for non-coal abandoned mine sites prior to the completion of all abandoned coal mine projects under the "voids and tunnels" provision (section 409) if the reclamation work is certified by the state or Indian tribe as needed to protect public health and safety. The bill fine-tunes current law by defining public health and safety within the context of a "priority 1" equivalent project.

Inventory: The bill would provide statutory authority for the current abandoned mine land inventory used by the Office of Surface Mining Reclamation and Enforcement and the states, and limit the use of the inventory for planning purposes and to assist in the certification process.

Fee compliance: The bill would slightly expand the items which are required to be reported to the Office of Surface Mining Reclamation and Enforcement by coal operators in their current quarterly fee statement.

Small Operators Assistance Program: Current law limits assistance under this program to coal operators who produce less than 100,000 tons of coal per year. The bill would raise the tonnage limit to 300,000 tons of coal per year.

Mr. FRENZEL. Mr. Speaker, I yield myself the balance of our time.

The SPEAKER pro tempore (Mr. FAZIO). The gentleman from Minnesota [Mr. FRENZEL] is recognized for 3½ minutes.

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

□ 0630

Ms. SCHNEIDER. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentlewoman from Rhode Island.

(Ms. SCHNEIDER asked and was given permission to revise and extend her remarks.)

Ms. SCHNEIDER. Mr. Speaker, I stand in opposition to this proposal.

Mr. Speaker, we have been waiting for a budget for 10 months. We are now 10 days short of congressional elections. The public is rightfully asking, "Where is the leadrship in Washington?" Voters in Rhode Island are fed up with the inability of Congress to do its work. They've had enough and I've had enough.

I am sure that many of my colleagues are tempted to vote yes so that they can go home and campaign. But if we do that, we are merely continuing to avoid our responsibilty.

Passing a budget under these conditions, without giving it the careful consideration that a $1.2 trillion commitment deserves, might satisfy the short-term public outcry. Unfortunately, when we look at the results of our handiwork under the cold, hard light of dawn, I

am afraid that we will still be asking "Where is the leadership in Washington?"

From my understanding, the budget we are considering commits us to spend $120 billion more than we spent last year. If we pass the budget before us, and the rosy economic projections are correct, we will see a growth in the national debt from the current level of $3 trillion to over $5 trillion by 1995.

Mr. Speaker, from every indication this is not a responsible budget. It is a continuation of the disastrous and irresponsible spending policies that we've been operating under for the decade I have been in the House.

In 1980, the national debt was a trillion dollars. With this budget, it will grow to $5 trillion in the next 5 years; $5 trillion that our children must pay back; $5 trillion that will displace investment capital; $5 trillion worth of debt that will generate interest payments in excess of $400 billion a year.

If we pass this budget tonight, Congress can adjourn, the newspapers will report that we've done our job, and the public may forgive our tardiness. Next year, Congress will return and the entire process will be played out again. Taxes will increase, but spending will increase faster.

The only way we can get control of the budget is to take control of the budget. That means setting a limit, setting priorities and living with those priorities.

We cannot afford everything that everyone wants. Leadership is the willingness to tell the voters that simple truth. Tonight I must join my constituents in asking, "Where is the leadership in Washington?"

Mr. FRENZEL. Mr. Speaker, we are almost to the vote, and it is time for us to make what a number of our Members have described as a difficult decision.

It seems to me it is a pretty easy decision. The choice is whether you want to remove from our overall deficit over the next 5 years nearly $500 billon, or whether you want to end the year with a whimper and simply a reaffirmation of our continuing appropriations without any attempt for savings, without any enforcement, without any entitlement reduction. I think that way is a path toward destruction.

I must say it is not the most comfortable position in the world for me to be sandwiched between the gentleman from New York [Mr. SCHUMER] and the gentleman from Missouri [Mr. GEPHARDT], as the onion in the petunia patch, but this time I think it is important that both sides get together.

Over on our side we worried that the GPO is not going to print the bill as quickly as possible. I have talked to the agency at length, and it is going to do everything to see that it puts out a CONGRESSIONAL RECORD as soon as possible.

We have worried that legislative counsel may have been subverted in its work, and our staffs assure us that insofar as possible we have checked to see that what comes up is what went down.

We have heard complaints about rifle shots in the bill. This bill is, at least in the tax section, covered with generic law. There is no specific law referring to a single individual or a single company.

We have a bill that is endorsed by the President, endorsed by the joint leadership, and endorsed, I hope, by a majority of this Congress.

It is not a great milestone. It is not a terrible sacrifice. It is not a change in the way we tax the rich or the poor. People are going to suffer somewhat equally, and there is not enough savings in it for most of us Republians.

Nevertheless, it is the only savings bill that we are going to confront. Deficits have been our No. 1 problem. We have done nothing since 1981 to take any action against them, and now is our time to do it.

I implore you, never mind for yourself or your constituents, but for those of you who are young enough to have young children or old enough to have grandchildren, think a little bit about them when you think of our $3 plus trillion deficit that will be $5 trillion before the 5-year period is out. Do something good for your country and help us get the deficit down.

BUDGET SUMMIT AGREEMENT IN NOMINAL DOLLARS AND AS A PERCENTAGE OF GNP

[Dollars in billions]

	Actual 1990	1991	1992	1993	1994	1995
Outlays	1,252	1,361	1,392	1,381	1,343	1,385
Revenues	1,032	1,138	1,221	1,306	1,395	1,473
Economic adjustments		30	58	54	36	19
Deficit	−220	−254	−229	−129	17	68
Deficit-w/o Social Security	−278	−317	−297	−208	−76	−40
GNP	5,486	5,807	6,199	6,670	7,141	7,607

NOTE.—The average annual growth in outlays during this period is 2.1%. (2% on a compound basis.)

AS A PERCENT OF GNP

	1990	1991	1992	1993	1994	1995
Outlays	22.8	23.4	22.5	20.7	18.8	18.2
Revenues	18.8	19.6	19.7	19.6	19.5	19.4
Deficit	−4.0	−4.4	−3.7	−1.9	0.2	0.9

NOTE.—Based on information available at 4 p.m. October 26, 1990. All numbers subject to change.

RECONCILIATION CONFERENCE AGREEMENT

Reconciliation savings	Fiscal year 1991—		Fiscal year 1991-95—	
	Done	Inst.	Done	Inst.
Agriculture (Assumes no GATT effect):				
Commodity Programs	1.218		11.896	
APHIS fees	.059		.413	
REA loans	.024		.516	
FmHA loans	.280		2.114	
	1.581	1.022	14.939	13.627
Over/under instruction		.559		1.312
Banking:				
Bank Insurance Fund (BIF)	1.100		9.000	
FDIC borrowing	.003		.012	
FHA reforms	.397		2.564	
FHA assignment waivers	.212		1.010	
Flood/crime insurance	.014		.832	
	1.726	1.507	13.418	13.258
Over/under instruction		.219		.160
Education and Labor:				
Stafford loans	.0		1.695	
PBGC premiums	.120		.640	
OSHA/MSHA civil penalties	.112		1.137	
Child labor penalties	.003		.015	
	.235	.215	3.487	3.770
Over/under instruction		.020		−.283

RECONCILIATION CONFERENCE AGREEMENT—Continued

Reconciliation savings	Fiscal year 1991—		Fiscal year 1991-95—	
	Done	Inst.	Done	Inst.
Energy and Commerce:				
Medicare [1]	3.342		42.469	
Medicaid	.004		.607	
NRC fees [1]	.287		1.554	
Travel and tourism fees	.010		.078	
Railroad user fees	.020		.169	
EPA user fee [1]	.028		.180	
	3.691	3.731	45.057	43.721
Over/under instruction		−.040		1.336
Interior:				
Tongass	.028		.204	
NRC fees [1]	.287		1.554	
Abandon mine rec. fees	.000		.832	
	.315	.343	2.590	2.018
Over/under instruction		−.028		.572
Judiciary:				
Patent and trademark fee	.102	.091	.495	.495
Over/under instruction		.011		0
Merchant Marine and Fisheries:				
Tonnage taxes	.053		.265	
Coast Guard direct fees	.026		.165	
Coast Guard indirect fees	.127		.718	
EPA user fees [1]	.028		.180	
	.181	.222	1.328	1.231
Over/under instruction		.041		.097
Post Office and Civil Service:				
Eliminate lump sum	1.390		7.600	
FEHB health reforms	.216		1.905	
Postal service payments	.654		4.680	
DoD portability	.006		.030	
Computer Matching	.056		.135	
	2.322	2.165	14.350	14.350
Over/under instruction		.157		0
Public works and Transportation:				
Increased aviation spending	0.		−.254	
EPA user fees [1]	.027		.180	
	.027	.042	.074	.254
Over/under instruction		−.015		.328
Science and Technology:				
NOAA fees	.002		.012	
Radon fees	.002		.008	
	.004	.005	.020	.025
Over/under instruction		−.001		−.005
Veterans:				
Med cost recovery	.113		.826	
Pension verification	.028		.743	
Willful misconduct	.010		.334	
Limit remote heirs	.125		.291	
Elim pension presum at 65	.017		.313	
Other vets	.328		1.158	
	.621	.620	3.665	3.350
Over/under instruction		.001		.315
Ways and Means:				
Medicare providers	2.992		32.404	
Medicare Beneficiaries	.350		10.065	
Medicare total [1]	3.342		42.469	
SS overpayments	0		.071	
Child care/Human Resources	−0.040		−.587	
Customs User fees	0		2.292	
PBGC fees [1]	.120		.640	
	3.422	3.320	44.885	55.603
Over/under instruction		.102		−10.718
Total reconciliation savings	10.422	9.082	99.137	107.406
Over/under instruction		1.340		−8.269
Reconciled revenues	17.607	13.225	137.169	118.800
Over/under instruction		4.382		18.369
Total reconciliation deficit reduction	28.029	24.307	236.306	246.206
Over/under instruction		3.722		−9.900

[1] Reconciled to more than one committee. Double count not included in total.

NOTE.—The Agriculture numbers assume that the Ag Committee will remove a provision which allows certain agricultural spending to increase if there is no GATT agreement. If one assumes that this spending will be increased, savings from agriculture programs and overall savings from the package would be reduced by $7.1 B over five years.

1990 RECONCILIATION BILL CONFERENCE AGREEMENT

AGRICULTURE COMMITTEE

	Fical years	
	1991	1991-95
Summit	1,300	13,000
Instructions	1,022	13,627
Conference	1,581	14,939
Conference savings (in millions):		
15-15-15-15 triple base starting in 1992	868	9,085
12-month average season price	0	755
Soybears loan origination fee of 2 percent	0	26
1991 feed grain ARP at 7.55 percent	289	905
1 percent loan origination fee	10	303

AGRICULTURE COMMITTEE—Continued

	Fical years	
	1991	1991-95
APHIS inspection fee	59	413
Reduction in milk price supports	51	822
REA loans	24	516
FmHA loans	280	2.114
Conference total	1.581	14.939

Changes from baseline:

Triple base of 15-15-15-15 percent beginning in 1991

Use 12 mo. (instead of 5 mo.) period to calculate season average price

Shift 25 percent REA loans to guarnateed loans

Shift most FmHA loans from direct to guranteed

Set 1991 corn ARP at 7.5 percent

Set 1 percent assessment on all marketings of tobacco, sugar, peanuts, & honey

APHIS user fee on international passengers

The GATT language has been significantly watered down but still call for mandatory marketing loans and extra $1 Billion in export programs if a GATT agreement is not reached by June 30, 1992, provided "fast track" authority still applies to the passage of any agreement.

BANKING COMMITTEE

	Fiscal years	
	1991	1991-95
Summit	1,493.	12,465
Instructions	1.507	13.258
Conference	1.723	13.447
Conference savings (in millions):		
FHA assignment waivers	212	1.010
FHA reforms	397	2.564
Flood and crime insurance	14	833
FDIC premiums	1.100	9.000
Conference total	1.723	13.447

FHA will conduct auctions of the beneficial interest in mortgage loans in order to prevent their assignment to FHA (identical to provisions in Housing Conference Agreement).

The Committee also makes a number of changes to the FHA's single-family mortgage program. The principal changes include giving FHA the authority to assess annual premiums on the loan amounts, permanently increasing the ceiling for FHA-insured mortgages to $124,857, and requiring FHA's total portfolio of loans to be in a surplus position.

The bill reauthorizes flood and crime insurance. These programs are credited as producing savings over the next five years even though they lose money over the very long term.

The Committee accepts the summit agreement on FDIC premiums, assuming a final premium of 23 cents per $100 of assessable deposits. These premiums could be imposed under current law.

Coinage legislation is not contained in this bill.

The reconciliation bill gives the FDIC explicit authority to borrow from the Federal Financing Bank. This authority was already implicit in the act.

The conferees rejected the Senate provision which gave RTC and FDIC preference in law suits against individuals and organizations which cause bank failures.

EDUCATION AND LABOR COMMITTEE

	Fiscal year—	
	1991	1991-95
Shortfall: $283 million:		
Summit	215	3,770
Instructions	215	3,770
Conference	235	3,487
Conference Savings (in millions):		
Guaranteed Student Loan Program	([1])	1,695
PBGC premium increase	120	640
OSHA/MSHA civil fine increases	112	1,137
Child Labor Law penalties	3	15
Conference total	235	3,487

Student Loans.—Enacts a thirty-day delay on loans to first-time borrowers; requires borrowers without a high-school diploma or GED to pass an independent test; makes schools ineligible for loans with default rates in excess of 35 percent in 1991 & 1992 and 30 percent in 1993 and beyond, except Historically Black Colleges and tribally-controlled community colleges; extends current limitations on SLS loan program; tightens bankruptcy codes; mandates supplemental pre-claims assistance and reimburses guarantee agencies $50 per successful claim.

PBGC Premium increase.—Raises the flat rate premium from $16 to $19 per person, raises assessment per $1,000 of unfunded vested benefit premiums from $6 to $9, and raises overall cap on the variable rate portion for $34 to $53.

OSHA.—Raises the maximum fine sevenfold on all civil infractions and adds a minimum fine for each "willful violation" of $5,000; no other minimum fines.

MSHA.—Raises the maximum fine fivefold on civil violations of mandatory safety and health standards, but no minimum fines.

Child Labor Law Civil penalties.—Raises the maximum fine to $10,000 per person for violations, but no minimum fines.

NEW SPENDING

Child Care.—Child care legislation is included in reconciliation, authorizing $750 million in new spending in FY 1991. The Labor, HHS Appropriations agreement for FY 91 has set aside $732 million in BA. However, Outlays in 1991 will be only $28 million, due to a September starting date for the program. If fully appropriated, CBO estimates the program will cost almost $4 Billion over five years. In addition, child care tax credits and block grants are included in the Ways & Means/Finance portion of Reconciliation.

ENERGY AND COMMERCE COMMITTEE (FEES)

	Fiscal year—	
	1991	1991-95
Shortfall: $27 million		
Summit	344	2,008
Instructions	344	2,008
Conference	345	1,981
Savings from fees (in millions):		
NRC fees	287	1,554
Railroad safety user fees	20	169
Travel and tourism fees	10	78
EPA user fees	28	180
Conference total	345	1,981

Nuclear Regulatory Commission Fees.—Allows for full cost recovery for the commission.

Railroad Fees.—Recovers railroad safety inspection costs.

Tourism and Travel.—Establishes fee for foreign airline and ship passengers entering U.S. In FY 1991, the fee would be 1$ per person, bringing in revenue to cover the Department of Commerce's tourism activities.

EPA User Fee.—Collects auto certification fees included in Clean Air bill.

ENERGY AND COMMERCE COMMITTEE (MEDICAID)

	Fiscal Year—	
	1991	1991-95
Savings from Medicare/Medicaid (in millions):		
Medicaid savings	4	607
Provisions Relating to Medicaid Program		
Reductions in spending:		
Reimbursement for prescribed drugs	70	1.930
Requiring medicaid payment of premiums and cost-sharing for enrollment under group health plan where cost effective	85	1.005
Expansions in the Medicaid Program		
Protection of low-income medicare beneficiaries: Medicaid payment at a normal Federal-State matching share for mandatory coverage premiums for Medicare beneficiaries with incomes up to 100 percent of poverty in 1991 and 1992.		
1993-94: Mandate payment of premiums only for those with income up to 110 percent.		
1995 and beyond: Mandate payment of premiums only for those with incomes up to 120 percent of poverty	+32	+367
Frail elderly: Optional home and community-based care for the frail elderly	+40	+580
Child health: Phased-in mandatory coverage of children up to 100 percent of poverty; Continuous and presumptive eligibility for children and pregnant women; Hospital payment adjustment for children up to 6; mandatory stationing of eligibility workers at locations other than welfare offices.	+40	+1.055
Developmentally disabled: Capped entitlement that would allow States to offer home and community-based services to individuals with mental retardation or related conditions.	+5	+100
Uninsured families demonstration: Demonstrations to test the effects of eliminating the current categorical restrictions under the Medicaid Program	+12	+40
Psychiatric hospital disallowances: Limits disallowances of Federal matching funds	0	+16
Federally qualified health centers. Clarification of use of Medicare payment methodology	+3	+19
AIDS Demonstration projects: Authorizes funding for early medical intervention services for people infected with the AIDS virus or are at a high risk	+5	+30
Respite care demonstration projects: Extend the New Jersey respite care demonstration project	+2	+4
Nursing home reform provisions	+11	+15
Miscellaneous provisions: German reparations: personal care services: mental health facility demo, other misc	+1	+42
Conference total Medicaid	4	607

Note: Savings from Medicare are noted under the Ways and Means Committee.

Summit.—(Medicare—see Ways and Means). Medicaid—Summit assumed unspecified reductions of $220 million the first year and $2,600 million for five years. Also assumed was $2,000 million to pay the increased premiums and deductibles assumed in the Medicare package for beneficiaries at 115% of poverty.

House.—Medicaid expansions included: the $1,900 million over five years to cover Medicare premiums for beneficiaries whose incomes are below 125 percent of poverty level as assumed in the summit agreement. Expansions not assumed included: child health amendments ($560 million over five years); outreach locations for potential Medicaid beneficiaries ($229 million over five years) and maternal and child coverage for women through the post-partum period and through the first year of certain infants.

Conference agreement.—Medicaid savings achieved—$2,935 million; Medicaid expansions total is $2,328 million. The total savings: $4 million in 1991; and $607 million for five years.

Miscellaneous provisions having negligible or no budget impact.—Voluntary contributions; disproportionate share hospitals; hospice payments; Indiana disallowance; substitute physicians; purchase of COBRA continuation premiums; spousal impoverishment; hospice election; medically needy income levels; rehab services; alcoholism & drug dependency; medicaid spend-down option; state disability determination; miscellaneous HMO provisions; miscellaneous provisions relating to HCBS waivers.

INTERIOR COMMITTEE

	Fiscal year—	
	1991	1991-95
Summit	315	1.758
Instructions	343	2.018
Conference	315	2,590
Conference Savings (in millions):		
Tongass Timber Reform (H.R. 987)	28	204
NRC Fees (Section 7, H.R. 1549)	287	1,554
Abandoned Mine Reclamation fees	0	832
Conference total	315	2,590

The Tongass Timber Reform agreement cancels a permanent appropriation contained in current law. The Senate is due to consider whether to include language to renegotiate certain timber contracts which could lead to losses to the Treasury if an expected lawsuit against the government is successful. CBO does not score these potential losses in any case.

The NRC fees provision would increase the fee to cover 100 percent of NRC costs, including the Office of inspector general, for five years. After 1995 the fees would be subject to a floor of 33% of NRC costs unless Congress passes further legislation. The House passed bill had made the 100 percent fees permanent.

The Abandoned Mine Land Fund is reauthorized for three years (1992-95) at the current fee rates. The House bill, which assumed HR 2095 had reauthorized the fund for 15 years, had reduced certain states' fee rates and had authorized several new spending programs. The Conference agreement is $214 M higher than the House bill over five years.

Does not include oil shale fees which were in the House bill.

JUDICIARY COMMITTEE

	Fiscal year—	
	1991	1991-95
Summit	100	540
Instructions	91	495
Conference	102	495
Conference Savings:		
Increase Patent and Trademark fees	102	495
Conference total	102	495

Increase Patent and Trademark fees.—69 percent surcharge on Patent and Trademark Office (PTO) user fees, raising $109.8 M in FY 1991. All receipts raised by the surcharge will be placed in a special fund in the Treasury and credited as offsetting receipts. Of the money put into the special fund for FY 1991, $91 M shall be subject to appropriation and the additional $18.8 M shall be directly available to the PTO. All of the money in the special fund will be subject to appropriation in FYs 1992-1995.

The summit agreement provided for a 45 percent increase in Patent and Trade fees. The House passed bill provided for a 56 percent increase. This percentage was increased to 69 percent in conference, maintaining the provision in the House bill that allows individuals, non-profit organizations and small businesses (approximately 35 percent of filings) to continue receiving a 50 percent discount and in order to raise the required $109.8 M to make PTO self-funding.

MERCHANT MARINE COMMITTEE

	Fiscal year—	
	1991	1991-95
Summit	218	1,211
Instructions	222	1.231
Conference	234	1,328
Conference Savings (in millions):		
Raise vessel tonnage duties	53	265
Indirect Coast Guard user fees	127	718
EPA user fees [1]	28	180
Direct Coast Guard user fees	26	165
Conference total	234	1,328

[1] Shared jurisdiction with Energy and Commerce and Public Works.

Vessel Tonnage Duties.—The tonnage tax on commercial vessels using American ports has not been changed since 1909. Merchant Marine increases these fees by an inflation factor, raising the tax per metric ton of the vessel (NOT the cargo). These fees will not be in effect after FY 1995.

Indirect Coast Guard User Fees.—Imposition of a tax that applies to recreational vessels over 16 feet. Fees range from $25 up to $100 depending on the size of the boat. This tax will also expire after FY 1995.

EPA User Fees.—Directs the Environmental Protection Agency to collect fees for services related to water pollution control, pesticide registration, toxic chemical notifications, radon proficiency, vehicle engine certificates, and fuel economy testing.

Direct Coast Guard User Fees.—Repeals provisions blocking the Coast Guard from charging user fees for specific services. This is a direct user fee, as opposed to the indirect $25 decal fee which the committee did not recommend.

EXTRANEOUS ITEM

H.R. 4450, Coastal Zone Management Act Reauthorization requires the Department of Commerce to charge fees for processing appeals under the Coastal Zone Management Act. Saves less than $500,000 in each of the five years.

POST OFFICE AND CIVIL SERVICE

	Fiscal year—	
	1991	1991-95
Summit	1.935	14.400
Instructions	2,165	14,350
Conference	2,322	14,350
Conference Savings (in millions).		
Suspension of lump sum	1,390	7,600
Increase USPS FEHBP and CSRS liability	710	4,680
FEHBP administrative reforms	216	1,905
Computer matching privacy protection	0	135
Portability of benefits (Revenue)	6	30
Conference total	2,322	14,350

Suspends the lump sum option for five years for all retiring federal workers effective. Employees who turn in retirement notices on or before November 30, 1990, may opt for a 50/50 lump sum payment. Exempted from the suspension are those who are involuntarily separated from the civil service and those critically ill. Congressmen employees are *not* eligible for the lump sum. A provision provides an additional year to elect the lump sum benefit for employees mobilized in connection with the Desert Shield operation.

Increases Postal Service liability for FEHBP and CSRS costs after 1971. Requires Postal Rate Commission to consider these costs in setting postal rate adjustments. The Committee estimates that this would add an additional penny to first class rates.

ADMINISTRATIVE REFORM

Exempt FEHBP from state premium tax requirements in a manner similar to that for the Federal Employees's Life Insurance Fund.

Require improved cash management by reducing the 3-4 day float.

Require all FEHBP carriers to incorporate cost containment packages.

The Committee reported the package with a recommendation that the changes not be adopted.

PUBLIC WORKS COMMITTEE:

	Fiscal year—	
	1991	1991-95
Shortfall: $328 million		
Summit	18	134
Instructions	42	254
Conference	28	+74
Conference Savings (in millions):		
Aviation Programs		+254
EPA User Fees [1]	28	180
Conference Savings (in millions):	28	+74

[1] Shared jurisdiction with the Energy and Commerce and Merchant Marine Committees.

The committee has not reached their reconciliation targets. They authorized the EPA to impose user fees sufficient to collect $28 million in FY 1991, and $38 million annually thereafter, except that no more than $10 million can come from clean water programs. These savings are shared by the Merchant Marine and Energy and Commerce Committees.

DIRECT SPENDING CONTAINED IN THE FAA REAUTHORIZATION

H.R. 5170.—FAA reauthorization which allows the Secretary of Transportation to grant local airport authorities the authority to impose passenger facility charges. Also establishes a National Noise Policy.

This package also would increase by $100 million the 1992 contract authority for grants for airport development and airport planning (grants-in-aid), and would provide $38.6 million per year in contract authority for the small community air service program for FY 1992-1998.

SCIENCE, SPACE, AND TECHNOLOGY

	Fiscal year—	
	1991	1991-95
Shortfall: $5.5 million.		
Summit	5.0	25.0
Instructions	5.0	25.0
Conference	3.5	19.5
Conference Savings (in millions):		
Radon testing research and development fees	1.5	.5
NOAA Weather Service fees	2.0	12.0
Total	3.5	19.5

Committee is below target $5.5 million or 22 percent. OMB estimated the NOAA fees would bring in $5 million per year and $25 million over five years. Committee minority says that the NOAA fee estimate could be raised, but it would be only a paper savings because it is doubtful that the fees would be collected at the higher level.

Radon fee is for R&D associated with the EPA radon testing program and is in addition to testing fees already authorized.

Nuclear Waste Disposal fee in original House bill was dropped in conference. Would have gotten $5 million per year.

VETERANS COMMITTEE

	Fiscal year—	
	1991	1991-95
Summit	500	2,700
Instructions	620	3,350

VETERANS COMMITTEE—Continued

	Fiscal year—	
	1991	1991-95
Conference	621	3.665
Conference Savings (in millions):		
Establish VA Medical Care Cost Recovery Fund and authorize, through September 30, 1993, certain recoveries from Third Parties	113	825
Require $2.00 prescription co-payment through September 30, 1991, for 30-day outpatient prescription	66	85
Repeal benefit restoration eligibility for remarried spouses and married children	19	374
Prohibit payment of compensation or pension for secondary effects of willful misconduct	10	334
Eliminate pension total disability presumption at age 65	17	313
Limit estates of certain incompetent veterans with no dependents	125	291
Modify medical care categories and co-payment requirements	35	45
Limit vocational rehabilitation to Veterans rated 20 percent or more	20	180
Access to IRS income data for pension income verification (Sec. 710, S. 2100)	28	743
Limit plot allowance	27	147
Reduce pension to Medicaid-eligible nursing home residents	22	124
Increase loan fees from 1.25 percent to 1.875 percent through 9/30/91	79	79
Require social security numbers, and match death records	4	47
Eliminate headstone and marker allowance	3	19
File manufactured housing loan payment claims prior to resale	4	14
1-month COLA delay to be repaid in FY92 and round down 4.5 percent COLA	49	43
Conference total	621	3.663

WAYS AND MEANS (OTHER)

	Fiscal year—	
	1991	1991-95
Summit	NA	NA
Instructions	NA	NA
Conference	206	2.503
Conference Saving (in millions):		
Unemployment compensation	0	0
Supplemental security income	−2	−15
AFDC	(¹)	−4
Child welfare and foster care	(¹)	(¹)
Child Care	−45	−715
Social Security	88	85
PBGC	120	640
IRS user fees	45	225
Customs Service user fees	0	2.292
Conference total	206	2.508

¹ Note: All numbers subject to change.

Allowed withholding of Social Security overpayments from the Federal tax refunds of former beneficiaries. This option was recommended in the Summit agreement.

Increased flat, per participant PBGC premium by $3 to $19. Increased variable, per participant premium by $3 to $9 for each $1,000 of unfunded liability. Additionally, the maximum per participant premium was raised by $19 to $53.

Extended IRS user fee program.

Extended custom service user fees for four years.

Rejected Summit recommendation to require States impose a two-week waiting period before claimants can receive benefits.

WAYS AND MEANS (MEDICARE)

	Fiscal year—	
	1991	1991-95
Mandatory/Fee Savings (in millions): Part A provisions:		
Reduce capital-related payments by 15 percent in fiscal year 1991. Rural hospitals, sole community and EACH hospitals exempted	810	4,050
Increased payments for inter city and rural hospitals	+100	+2,000
Market Basket Update: MBI—2.0% (FY91) MBI—1.5% (FY92) MBI—1.4% (FY93)	580	11,300
DRG payment window	45	555
Direct graduate medical education: Hospital university nurse and GME recoupment delay	+205	+480

WAYS AND MEANS (MEDICARE)—Continued

	Fiscal year—	
	1991	1991-95
Freeze in fiscal year 1990 payment policies 11/1—12/31/90	495	495
PPS-exempt hospital adjustment	0	+140
Hospice	0	+4
Miscellaneous and technical, part A	+5	+45
Total part A	1.620	13.731
Part B provisions:		
Overpriced physicians services	290	2.565
Reduction in payment for radiology services and fees/technical radiology component	165	1.505
Physician update: primary care—2 percent in 1991: all other services—no update in 1991. Reduction of 0.4 percent in 1992 for all services.	305	3,056
Other physician proposals including limiting payments to new physicians; limit payments to assistants at surgery and limit payments for interpretation of EKGs.	90	1.585
Hospital outpatient services	355	2.560
Various graduate medical education provisions	+25	+65
Durable medical equipment and post cateract eyeglasses	245	2.450
Clinical laboratory services	85	1.150
Continue fiscal year—2 percent reduction policy to physician providers and suppliers under part B for 2 months	110	110
Medicare enhancements: Community and rural health centers: nurse practitioners in rural areas: nurse anesthetists: mental health: and other small enhancement	+64	+674
Total part B	1.556	14.242
Part A and B provisions:		
End Stage Renal Disease provisions—includes secondary payer: facility rate increase, dose level and home benefit demo.	61	467
Extend secondary payer provisions	0	5.700
EPO self-administration	+15	+120
Total part A and part B	46	6.046
Beneficiary provisions:		
Part B premium increases ($29.90/91: $31.30/92: $36.60/93: $41.10/94 and $46.10/95)	0	7.455
Part B deductions from $75 to $100	350	2.610
Total beneficiary reductions	350	10.065
Medicare enhancements.		
Regional floor extension	+90	+365
Mammography	+140	+1.250
Total Medicare package	3.342	42.469

Summit: (Medicare) Assumed $4.9 B in cuts the first year with $1.7 B from beneficiaries. The 5-year savings was $60 B with $27.8 B from beneficiaries.

House bill as amended by the Rostenkowski amendment: (Medicare) Saved $3.7 B in the first year and $43.8 B over five years. The beneficiary portion was $350 M in the first year and $10 B over five years.

Conference agreement: (Medicare) Saves $3.342 B in FY 1991 and $42.469 B over five years. The beneficiary portion is $350 M in the first year and $10.065 B over five years.

WAYS AND MEANS (REVENUES)

[Instructed to raise $13.225 million in FY 1991 and $118.900 million over 5 years. $20 billion in unspecified deficit reduction was also available for revenue increases]

	Fiscal year—	
	1991	1991-95
Revenues (In billions)		
Revenue raisers:		
1. High-income individuals:		
a. Individual rate structure: 15 percent/28 percent/31 (24 percent AMT rate: 28 percent maximum capital gains rate)	0.8	11.2
b. Phase out personal exemption (2 percent/$2.500: $100.000/$125.000. $150,000 threshold)	1.0	10.8
c. Limit itemized deductions (3 percent, over $100.000)	.5	17.9
d. 10 percent luxury excise tax	.1	1.5
e. Increase Medicare (HI) wage cap to $125.000	1.8	26.9
f. Eliminate deduction for cosmetic surgery	0	.2
2. Environmental provisions:		
a. 5 cent/gallon motor fuels tax	4.4	25.0
b. Double gas guzzler tax	.1	.4

WAYS AND MEANS (REVENUES)—Continued

[Instructed to raise $13.225 million in FY 1991 and $118.900 million over 5 years. $20 billion in unspecified deficit reduction was also available for revenue increases]

	Fiscal year—	
	1991	1991-95
c. Expand ozone depleting chemical excise tax	.1	5
d. Leaking underground storage tank (LUST) trust fund (5 years)	.1	6
e. Extend Hazardous waste superfund (4 years)	...	...
3. Extend telephone tax	1.6	13.7
4. Increase tobacco tax by 4 cents per pack in 1991 and by 4 cents per pack in 1993	.5	5.9
5. Beer, wine and distilled spirits taxes	1.3	8.8
6. Increase Airport Trust Fund aviation excise taxes (5 years)	1.4	11.9
7. Increase harbor maintenance tax	.3	1.8
8. Loss deductions and salvage values for insurance companies (8-year phase-in)	.2	.6
9. Amortize insurance policy deferred acquisition expenses (DAC)	1.4	8.0
10. Adopt foreign compliance provisions including certain provisions from H.R. 4308	0	.3
11. Retiree health with reversion excise increase and asset cushion requirement	.5	.9
12. Increase tax on corporate underpayments	1.6	1.8
13. Certain business tax provisions:		
a. Expand and clarify reporting and allocation rules for certain asset acquisitions	0	.1
b. Require accrual of redemption premium for certain preferred stock	0	4
c. Expand application of CERT rules to subsidiary acquisitions	0	4
d. Require recognition of corporate-level gain in certain divisive corporate transactions (5-year limitation period)	0	.2
e Clarify treatment of debt exchanges	.1	4
14. IRS user fees	0	.2
15. State and local Social Security (OASDI)	.4	9.2
16. Extend FUTA 0.2 percent surtax (5 years)	.8	5.4
17. Payroll tax deposit stabilization	1.0	0
18. Extend statute of limitations to 10 years		
19. Increase penalties for reporting rules		
20. Foreign Trust provision	0	.3
Total gainers	20.2	164.6
Revenue losers:		
21. Extend expiring provisions through 12/31/91	−.2	−5.9
22. Energy incentives:		
a. Extend Section 29 with tight sands	−0	−.6
b. Ethanol incentives	−0	−.2
c. 15 percent credit for enhanced recovery	−0	−.2
d. Amend percentage depletion	−0	−.3
e. Reduce AMT for IDCs	−.1	−.8
f. Reduce AMT for percentage depletion	−0	−.4
23. Modify estate freeze rules	−0	−8
24. Disabled persons access credit	−.1	−.4
25. Cap on Section 190 expensing at $15,000	−.1	−.4
26. Repeal AMT for contributions of appreciated property (1 year)	−0	−0
27. Progressivity/childcare:		
a. Increase EITC	−.1	−12.4
b. Child Health credit	−.1	−5.2
c. Increase standard deduction $500 for families with children under 1 year	−.1	−.7
Total losers	−2.6	−27.4
Net Deficit Reduction (in billions)	17.6	137.2

HIGHLIGHTS

The income tax rate provision bursts the bubble at 31 percent and increases the AMT to preserve the current gap between the top marginal rate and the AMT. Capital gains is limited to 28 percent.

The phase out of personal exemption is similar but not identical to the current law bubble. It would phase out all personal exemptions over a fixed $125,000 income range starting at $150,000 on joint returns. This works out to approximately a ½ percentage point increase per exemption in the marginal rate on income above the thresholds (which are higher than current bubble).

The limit on deductions for high income people is calculated like this: take the difference between a taxpayer's Adjusted Gross Income and $100,000: take 3 percent of that number: subtract the amount from the sum of state and local, interest and charitable itemized deductions.

Luxury tax applies to new items above the following thresholds: autos—$30,000; boats and yachts—$100,000; jewelry—$10,000; furs—$10,000; planes—$250,000. Tax would be sunsetted January 1, 2000.

The wage gap for the Medicare (HI) payroll tax is increased from $54,300 to $125,000.

The motor fuels tax would be effective 12/1/90. Railroads would pay 50 percent of the tax increase (2.5 cents). 50 percent to trust fund, 50 percent to general revenues.

The gas guzzler provision would double the current tax and subject limousines to the tax.

The ozone depleting chemical tax levies a tax on chemicals which are covered by the Montreal Protocol but which are not currently subject to excise tax.

The LUST Trust Fund tax extends a 1 cent/gallon tax on fuels used on the inland water which expired on 9/1/90.

The current law 3% telephone excise tax is extended and the collection period is modified.

Tabacco tax applies to all tobacco products and would increase excise taxes on products other than cigarettes by 25% for every 4 cent/pack increse in cigarettes. The tax on large cigars would be based on the actual retail price. Floor stock taxes would be imposed only on cigarettes.

Alcohol tax would 1) increase distilled spirits by $1.00 to $13.50 per proof gallon; 2) double beer tax to 32 cents/6 pack; 3) raise table wine rate to 25 cents/bottle and fortified wine proportionately. The provison includes an exemption for small domestic wineries and breweries.

Current Airport and Airways taxes would be extended for 5 years and increased as follows: passenger tax increased from 8% to 10%; freight tax increased from 5% to 6.25%; non-commercial gasoline and jet fuels increased by 3 cents and 3.5 cents respectively. The current law tax trigger which cuts airport taxes by 50% if trust fund appropriations do not reach 85% of authorizations would be repealed. The increased funds from this provision would be dedicated to the General Fund through 1992 and to the Airport trust fund thereafter.

Harbor Maintenance tax would be increased from 0.04% of cargo value to 0.125% for cargo value.

The insurance company salvage value provision closes a loophole which has allowed property and casualty companies to deduct losses without netting out their gains from salvage.

The DAC provision imposes a gross premium tax on life insurance companies for various categories of insurance policies. This tax acts as a surrogate for the amortization of the acquisition costs of their policies (eg. the commission paid to an insurance agent) over a 10 year period. Under current law insurance companies are generally able to deduct these costs immediately. Deferred acquisition expenses would be defined separately for annuities, group life, and other life policies.

Foreign compliance provisions include increased reporting requirements, extended statutes of limitation for certain proceedings and increased penalties for non-compliance. Rules apply to foreign and domestic corporations but not to individuals.

The retiree health provision would allow companies to transfer pension fund assets in excess of full funding limits to pay current retiree health costs. These transfers would not be subject to normal asset reversion penalties. The current 15% excise tax on reversions would be increased to 20%.

Certain business tax provisions are included that affect corporate depreciation, preferred stock, interest deductions, stock distributions, and debt exchanges. These provisions are not controversial.

The bill would require coverage under Social Security for all state and local employees not covered by a state or local retirement plan.

The bill extends the current law FUTA unemployment surtax on exployers.

The payroll tax stabilization provision is a timing shift which results from last year's budget chicanery. Under current law, the amount of time employers have to remit the federal taxes they withhold from employees paychecks is one day in 1990, two days in 1991, three days in 1992, and then back to one day in 1993. This provision simply stabilizes the period at one day for all years.

The increase in the EITC is adjusted for number of children.

The Child Health insurance credit is 6%, with a 4.29% phase out. Phaseout income levels are the same as for EITC.

BUDGET PROCESS AND ENFORCEMENT

ENFORCEMENT OF DISCRETIONARY CAPS ON APPROPRIATIONS

Caps established at Budget Summit Agreement levels as follows:

	Fiscal years				
	1991	1992	1993	1994	1995
Defense BA	288.9	291.6	291.8		
Outlay	297.7	295.7	292.7		
International BA	20.1	20.5	21.4		
Outlays	18.6	19.1	19.6		
Domestic BA	182.7	191.3	198.3		
Outlays	198.1	210.1	221.7		
Total Discretionary	BA			510.8	517.7
Outlays				534.8	540.0

If OMB determines that any BA or outlay cap has been breached in any category, an automatic across-the-board offset will occur in all the appropriations within that category.

Offset would occur 15 days after end of Section of Congress, 15 days after enactment of any appropriations in new session before July 1. Appropriations enacted after July 1 subject to end of session offsets. [Summit agreement had timed offset to occur 15 days after enactment of each bill.]

Adjustments in caps will be made to "hold harmless" for actual inflation different than now projected, Presidentially-designated emergencies, Operation Desert Shield, Egyptain/Polish debt forgiveness, IMF funding, funding IRS enforcement, and in FY 1992 and 1993, special allowances for BA and outlays.

PAY-AS-YOU-GO (PAYGO) ENFORCEMENT OF DEFICIT NEUTRAL MANDATORY/ENTITLEMENT/REVENUE LEGISLATION

Legislation increasing entitlements, reducing revenues or both must be offset with reduced entitlements or increased revenues or both so that it is deficit neutral in each of fiscal years 1991-1995.

Within 15 days after end of Session of Congress, an automatic offset will cut sequesterable mandatory programs by the amount of any net deficit increase in that fiscal year and the prior fiscal year caused by legislatoin which violates PAYGO.

Programs subject to PAYGO cuts are the same as sequesterable mandatory programs under present-law Gramm-Rudman, except that the maximum Medicare cut is increased to 4 % (instead of 2%.) (Tentative as of 8:30 pm, October 26, 1990.)

Differences from summit agreement: occurs 15 days after end of session instead of 15 days after each bill. Revenues trigger PAYGO offset instead of being roconciled back to committee.

Five-year budget resolution will be required through FY 1995. Discretionary allocations will conform to discretionary caps. Enforcement of first year and five-year reconciliation of spending and revenue legislation. *Byrd rule* against extraneous provisions in reconciliation strengthened in the Senate and extended to include conference agreements.

GRH EXTENSION THROUGH FY 1995

New targets established for the budget deficit *without* social security (operating balances and interest are both *off*-GRH) and *with* deposit insurance, as follows:

FY 1991 $327 billion; FY 1992 $317 billion; FY 1993 $326 billion; FY 1994 $102 billion; FY 1995 $83 billion.

If social security had been included, the targets would have been as follows:

FY 1991 $253 billion; FY 1992 $234 billion; FY 1993 $137 billion; FY 1994 +$12 billion; FY 1995 +$63 billion.

These GRH targets will be adjusted for all remaining years through FY 1995, for economic and technical reestimates when the President's budget is submitted for FY 1992 and FY 1993. Adjustments in FY 1994 and 1995 at President's option. [Summit Agreement: economic adjustment in March, 1992, technical adjustment in FY 1993, and adjustments in FY 1994 and 1995 if unanimously recommended by a bipartisan leadership group.]

GRH "cushion" eliminated for FY 1991, 1992 and 1993 (not necessary because of adjustments in targets will eliminate sequesters unless deficit-increasing policies have been enacted). $15 billion cushion provided for FY 1994 and 1995. GRH calculations will hold harmless for increases in deposit insurance costs.

Sequester, if required, will occur 15 days after end of session. Sequester baseline locks in when President's budget is introduced.

Credit Reform: Both direct loans and loan guarantees will be scored to reflect to cost of their subsidy value. Budget authority will be appropriated equal to these subsidies when loans are obligated or guaranteed. This will decrease the budget effect of direct loan programs and increase that of guarantees.

GOVERNMENT SPONSORED ENTERPRISES

Treasury Department required to submit to Congress a study of GSEs and recommended legislation by April 30, 1991. CBO required to submit a study by the same date.

Committees with GSE oversight required to report by September 15, 1990, legislation to ensure the financial soundness of the GSEs and to minimize the possibility that a GSE might require future government assistance.

ENFORCEMENT OF DEFICIT REDUCTION

I. The Reconciliation Conference is, in general, faithful to the surprisingly effective provisions of the Summit Agreement. Principle enforcement is as follows:

A. Appropriations are controlled through the Automatic Categorical Offset (also called mini sequester). When an appropriations bill (regular or supplemental) exceeds the agreed limits according to OMB scoring, after 15 days the entire category, domestic, international, or defense, is automatically reduced across the board. This is a far more powerful fiscal weapon than enhanced recision.

B. Entitlements are controlled through a similar offset. However, mandatory offset occurs only once per year at the end of the fiscal year. Entitlements over the agreed limits are automatically offset by reductions

in other entitlements across the board. This is usually referred to as the Pay As You Go Section.

C. Enforcement on revenue shortfalls is similar to entitlements. The offset is against mandatory expenditures and occurs at the end of the year.

II. Agreed BA and outlay limits are set for 5 years and enforced as though they were caps. Caps are to be adjusted in FY 91 and FY 92 to hold appropriators harmless for technical and economic assumptions.

III. All savings to meet agreed limits are reconciled for 5 years in this bill.

IV. Gramm Rudman is extended for 5 years. It will service a a back-up enforcement tool, and is not liekly to be used at all.

V. Social Security is off-budget and off-Gramm Rudman. It is protected by the Pay As You Go rules, too.

VI. Treasury reports and Congressional action on GSEs are mandated.

VII. Costs of credit, direct and guaranteed, will become a part of FY 92 budget. In 1993, those costs will be included under the agreed limits and enforced as above.

VIII. Byrd rule which prevents extraneous amendments on reconciliation bills is extended to conference reports. This will make House add-ons more difficult.

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

Mr. Speaker, before I introduce the last speaker, I again want to pay tribute to my good friend, the gentleman from Minnesota [Mr. FRENZEL], who is today managing his last budget conference report. There is no Member who has served his constituents or his country better, and, Bill, we will miss you for your efforts.

Mr. Speaker, I yield the balance of my time to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT], who has done an outstanding job in bringing this budget to a conclusion.

Mr. GEPHARDT. Mr. Speaker, Members of the Congress, I first want to thank the chairman of the committee who, I think, has done an outstanding job of leading us to this point. I also want to thank all of the chairmen, all of the Members on the other side of the aisle who have worked so hard in committee to bring this bill to the floor. I want to especially note the contribution of Chairman ROSTENKOWSKI, who I think, did a masterful job of writing a tax plan, and I want to thank BILL FRENZEL and BILL ARCHER, and I especially want to thank BOB MICHEL for truly being a leader on a very, very difficult topic.

Ladies and gentlemen, this morning is a time to rise to the occasion. It is not a morning for politics, although all of us love politics, and politics is part of our government and our life. It is not a morning either for ideology, even though all of us bring to this place deep-seated beliefs about how the country should be run and the direction in which the country should go. Neither is it a morning for worrying about 30-second spots that might be run against us if we vote for all of the unpopular things that are in this package.

Over the past 5 months, Democrats and Republicans, Representatives and Senators, members from the Executive Branch, and Congressmen, have all together compromised, and all have left to another day, the battles we devoutly wish to wage on this day.

And why have we put down our weapons on this morning of ideology and belief? We have done it because our economy and our country enters now a period of maximum danger. I said the other night, that if we have a recession in the next year, we will lose another 400 savings and loans. And how will we pay for them? How will we insure the deposits? We may lose another 300 or 400 banks. And how will we insure those deposits? We have 200,000 and another 100,000 of our young people on their way to the Arabian desert. And if our economy fails, how can they possibly succeed?

I think our country is in danger this morning, and I think this package offers the best hope that we can move back from that danger and move our country in a proper and in a safe direction.

A few months ago I was in Poland, and I talked with their leaders, their young new leaders. And they were talking about asking their people to sacrifice, and they talked about it with enthusiasm. I asked them how in the world they were going to get elected asking their people to pay more for food and more for rent and cutting down on government programs. And one of their young leaders looked me in the eye, and he said, "Congressman, our people want us to do this, because this is our chance to be free."

Ladies and gentlemen of the House, I think our people tonight want us to do what is right, because they know that our country is in danger.

A great writer once reflected on the decline of an ancient democracy, and he said this:

> In the end, more than they wanted freedom they wanted security. They wanted a comfortable life, and they lost it all, security, comfort and freedom.

When the Athenians finally wanted not to give to society but for society to only give to them, when the freedom they wishes for most was freedom from responsibility, then Athens ceased to be free.

If we are responsible this morning, then the very freedom that all of us together cherish, no matter what our beliefs, is in danger. And if we fail, it will be said in Europe and Japan and all over the world, that the world's greatest democracy, no longer has the will to govern.

Ladies and gentlemen, my colleagues, this morning is a time to prove our critics and our detractors wrong.

□ 0640

So I urge each Member this morning to support the economy, support the country, support the good people of this Nation. Vote for this package, and show all of the world that we have the will to govern, and that America is the greatest and freest democracy in the history of the world.

The SPEAKER. Under the rule, the previous question is ordered on the conference report.

The question is on the conference report.

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

RECORDED VOTE

Mr. FRENZEL. 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, not voting 5, as follows:

[Roll No. 528]

AYES—228

Ackerman
Anderson
Andrews
Anthony
Aspin
Atkins
AuCoin
Bateman
Beilenson
Bennett
Berman
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brooks
Brown (CA)
Buechner
Bustamante
Byron
Cardin
Carper
Chandler
Chapman
Clarke
Clement
Clinger
Coleman (MO)
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Crockett
Darden
Davis
de la Garza
DeFazio
Derrick
DeWine
Dicks
Dingell
Dixon
Donnelly
Downey
Durbin
Eckart
Edwards (CA)
Engel
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flippo
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Grandy
Gray
Green
Hall (OH)
Hamilton
Harris
Hatcher
Hawkins
Hefner
Hochbrueckner
Houghton
Hoyer
Hutto
Ireland
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Lowery (CA)
Lowey (NY)
Luken, Thomas
Madigan
Manton
Markey
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McDermott
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Nagle
Neal (MA)
Neal (NC)
Nelson
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Panetta
Parker
Payne (VA)
Pease
Pelosi
Penny
Pickle
Poshard
Price
Ray
Rhodes
Richardson
Ridge
Ritter
Roberts
Rose
Rostenkowski
Rowland (GA)
Russo
Sabo
Sawyer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (VT)
Solarz
Spratt
Stenholm
Studds
Swift
Synar
Tallon
Tanner
Thomas (GA)
Torres
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Wheat
Whittaker
Whitten
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie

NOES—200

Alexander	Guarini	Rangel
Annunzio	Gunderson	Ravenel
Applegate	Hall (TX)	Regula
Archer	Hammerschmidt	Rinaldo
Armey	Hancock	Robinson
Baker	Hansen	Roe
Ballenger	Hastert	Rogers
Barnard	Hayes (IL)	Rohrabacher
Bartlett	Hefley	Ros-Lehtinen
Barton	Henry	Roth
Bates	Herger	Roukema
Bentley	Hertel	Rowland (CT)
Bereuter	Hiler	Roybal
Bevill	Hoagland	Saiki
Bilbray	Holloway	Sangmeister
Bilirakis	Hopkins	Sarpalius
Bliley	Horton	Savage
Brennan	Hubbard	Saxton
Broomfield	Huckaby	Schaefer
Browder	Hughes	Schneider
Brown (CO)	Hunter	Schuette
Bruce	Hyde	Schulze
Bryant	Inhofe	Sensenbrenner
Bunning	Jacobs	Sharp
Burton	James	Shumway
Callahan	Jontz	Shuster
Campbell (CA)	Kasich	Slaughter (VA)
Campbell (CO)	Kolbe	Smith (NJ)
Carr	Kolter	Smith (TX)
Clay	Kyl	Smith, Denny (OR)
Coble	Lagomarsino	Smith, Robert (NH)
Collins	Laughlin	Smith, Robert (OR)
Combest	Lewis (FL)	Snowe
Condit	Lightfoot	Solomon
Costello	Long	Spence
Cox	Machtley	Staggers
Craig	Marlenee	Stallings
Crane	Martin (IL)	Stangeland
Dannemeyer	Martin (NY)	Stark
DeLay	Martinez	Stearns
Dellums	McCandless	Stokes
Dickinson	McCollum	Stump
Dorgan (ND)	McEwen	Sundquist
Dornan (CA)	Miller (OH)	Tauke
Douglas	Molinari	Tauzin
Dreier	Moody	Taylor
Duncan	Moorhead	Thomas (CA)
Dwyer	Murphy	Thomas (WY)
Dymally	Myers	Torricelli
Dyson	Natcher	Towns
Early	Nielson	Traficant
Edwards (OK)	Nowak	Unsoeld
Emerson	Owens (NY)	Upton
English	Oxley	Vucanovich
Erdreich	Packard	Walker
Fawell	Pallone	Walsh
Fields	Parris	Washington
Flake	Pashayan	Weber
Gallegly	Patterson	Weiss
Gallo	Paxon	Weldon
Gaydos	Payne (NJ)	Williams
Gekas	Perkins	Yatron
Geren	Petri	Young (AK)
Gillmor	Pickett	Young (FL)
Gingrich	Porter	
Goss	Pursell	
Gradison	Quillen	
Grant	Rahall	

NOT VOTING—5

Coleman (TX)	McGrath	Yates
Hayes (LA)	Vander Jagt	

☐ 0657

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5835, OMNIBUS BUDGET RECONCILIATION ACT OF 1990

Mr. PANETTA. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill (H.R. 5835) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1991, the Clerk be authorized to make such technical and conforming corrections as may be necessary on the bill, H.R. 5835, the Omnibus Budget Reconciliation Act of 1990.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. PANETTA. Mr. Speaker, I ask unanimous consent that all Members may have 7 calendar days within which to revise and extend their remarks, and include therein extraneous material, on the conference report on H.R. 5835, just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

OMNIBUS BUDGET RECONCILIATION ACT—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference on H.R. 5835 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Seante to the bill (H.R. 5835) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1991 having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 26, 1990.)

The PRESIDING OFFICER. The debate on the conference report is limited to 10 hours.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. As I understand, we have 5 hours on this side?

The PRESIDING OFFICER. That is correct.

Mr. DOLE. Mr. President, I yield back 4 hours.

The PRESIDING OFFICER. The Senator has that right. Time is reduced accordingly.

Mr. MITCHELL. Mr. President, I yield back 4 hours of our time.

The PRESIDING OFFICER. The Senator has that right. Time is reduced accordingly. There will be 2 hours equally divided.

Mr. MITCHELL. Mr. President I now yield to the distinguished chairman of the Budget Committee, the manager of the bill.

The PRESIDING OFFICER. The Senator is recognized under time controlled by the majority leader.

Mr SASSER. Mr. President, today as we move to final passage of the budget reconciliation conference report, I can hear all across the Senate from 100 offices in the near vicinity of this Chamber a sigh of relief, and I suspect we can hear a loud sigh of relief coming from those Americans everywhere who believe that this Nation's fundamental strength is built on the stability and predictability of our governing institutions.

My own view is that we have pushed our system of Government close to the very brink of losing the confidence of our people. As painful as it may seem, I believe the experience that we have just gone through during the past few days and weeks will ultimately prove to be a national catharsis, an opportunity I think at long last to expel some of the demons and myths that have built up over the last decade.

I am convinced that once we pass this legislation, we will have passed a fundamental test of leadership and responsibility in this Chamber. We will have proven to the American people that we can, indeed, put aside our immediate political advantage in pursuit of a long-term national interest. We will have proven that on the most divisive and contentious issue of the 1980's—and that has been the budget, and spending, and revenue priorities—we can put those contentious issues aside and in fact reach a productive consensus in the interest of all of the people of this country.

Mr. President, the budget reconciliation conference report represents, I submit, a substantial improvement on the budget reconciliation we passed just last week in this body. You will recall, Mr. President, we passed that reconciliation report with a substantial bipartisan majority.

The conference report before us today concentrates the savings overwhelmingly on the spending side, not on the tax or revenue side. I might say that 10 Senate committees worked on and achieved their reconciliation savings and every conference succeeded in maintaining those savings save one. Overall, we have reconciled some almost $29 billion in savings for 1991, and $250 billion over 5 years.

As I said when we considered the original reconciliation bill, Mr. President, that is really a mammoth achievement. This is the largest deficit reduction package in the history of this Republic.

Those who might seek to trivialize it have not seen the anguish that went into implementing these policies, policies that committees know both bodies had resisted for years. A lot is said in this Chamber about historic legislation, though the phrase is thrown around much too liberally, I do believe—and I see the distinguished ranking member, Senator DOMENICI on the floor. It is a pleasure to see him. I do say to my distinguished friend from New Mexico that I think this confernce report may truly represent historic legislation.

I think this may be the beginning of what I would charaterize as the "great correction," the fundamental adjustment to too many years of indulgence and excess. This is the beginning for the American people, beginning once more to start living within their means and, more importantly, their Government to take the first step to living within its means. This fiscal package reaches the necessary deficit reduction goals through reasonable but prudent program cuts, and it reaches its goals also with equitable and fair revenue policies.

Mr. President, the mechanisms to enforce this deficit reduction package are going to be put into law when the President signs this package.

Taken as a whole, I think the proposal that is before this body today should be easily creditable enough to give confidence to the Federal Reserve and to the world's financial markets. In the variation on the bill that we passed last Thursday, we reduced the amount of sacrifice we are asking from Medicare beneficiaries and reduced it substantially.

We reduced substantially the impact of the gasoline tax, and we increased the overall progressivity of the tax policy changes, placing a smaller burden on middle-class Americans and increasing the burden on the wealthiest Americans.

Frankly, Mr. President, I consider those improvements. They were necessary alterations if we were to get concurrence from the House of Representatives. In these final hours of what is seemed to many of us like interminable debate, I want to spend just a very few minutes dealing with the larger question behind this package and the question of why it is so vitally necessary to this country at this particular time.

Some of us have made the case that vigorous deficit reduction is the wrong way to go at this time. That has been the argument of a number of our colleagues, and the argument of others across this country. Instead they have proposed once again a mixture of tax cuts and tax breaks. I submit that is the same formula that got us in the hole we are in now. That is exactly the path of least resistance that led us into the fiscal swamp of the 1980's. We have to change that course. I think most of us here understand that.

The oil shock, slowing growth, and I must say that this country is in a poor position today to take a rapid runup in oil prices that we were in the decade of the 1970's. And with the sudden flight of capital to which we have become addicted, we now see the Japanese keeping their money at home because they can get interest rates just as high there as they can in the United States. We see the Germans using their money to rebuild the eastern part of Germany and all of Eastern Europe. So the foreign capital is leaving us. We cannot finance our deficit with that as we could in the decade of the eighties.

We have deficits at record levels and we find that we, as the world's now only unchallenged superpower, are chained by this budget deficit. We have run up a huge tab with the rest of the world. And I think we, thereby, enslaved ourselves to the whims of the international capital markets.

That might have been acceptable as long as our interest rates remained sufficiently attractive to command a steady flow of foreign investment. But events in the Middle East over the past few months have turned our foreign capital dependency into potentially a mortal weakness, I say to my colleagues. The rising price of oil has put stress on the economy of creditor Nation. That includes Brazil. It includes other lesser developed countries and, unhappily, it also includes the United States of America.

We, as the world's largest debtor country, I submit could become a financial casualty not to war but to even the rumor of war. The intrinsic appeal of our Treasury bonds is now nonexistent. As a result, foreign investors have the power to extract from us very the highest possible premium because they know that we cannot finance our massive debts without their money.

So, in short, we must act to reduce our needs for borrowing. We must act to reduce the deficit. If we do not, the rates of interest we must pay to attract the necessary capital will simply have to go up. The higher interest rates will combine with the rising cost of oil to strangle economic growth.

Our steadily weaker economy will further weaken our already tenuous financial institutions which will, in turn, be unable to provide the investment capital we need to get off our needs.

The whole thing could turn into a nightmarish economic death spiral with high interest rates generating economic weakness and economic weakness forcing higher interest rates still.

That all has to be avoided. That is why I submit, Mr. President, that it would be fundamentally irresponsible to vote against this conference report here today.

As has been said before, this is not a perfect package. I am sure that if Senator DOMENICI, the distinguished ranking member, were free to write his own package, it would have been substantially different from the one we have before us today. Certainly, had I been free to write my own package, it would have been substantially different from the one we have before us today.

But we do not live in a pure world. This is a world in which we must make accommodations, and in this great democracy of ours we must make compromise.

I want to pay tribute to those individuals on both sides of the aisle who have the wisdom and the maturity to put the economic health of their country first today, and give up some of their long-held beliefs simply in the effort to get an agreement here today and to lay this controversy to rest.

We can either sit and curse the economic darkness, or we can light this single candle, Mr. President. I choose today to light this single economic candle.

We all have our regrets about the end point of this tortured process. There are plenty of provisions that I would take out of this package if I can do so. But the saddest part of the whole thing is that we should have been doing what we are doing today at least a year earlier.

We should have been making these fundamental adjustments on this great economic engine we call the American economy growing and when inflationary pressures were not restricting the flexibility of the Federal Reserve to respond to the needs of our economy. We did not do so. We did not act in a timely manner. But, Mr. President, that was unfortunate. But it would be absolutely tragic if we failed to act at all today.

So this package deserves to pass. It deserves to pass for a lot of reasons. It deserves to pass because we want to do things for this country. We want to see this economy growing, prospering and expanding.

There are some good things in this package—also some good initiatives.

A moment ago, I saw the distinguished Senator from Connecticut on the floor, Mr. DODD. As all of my colleagues know, Senator DODD has had a longstanding interest as have many of his colleagues on the whole question of child care, and the ability of our Nation to see that working mothers have some help in the caring of their small children.

We live in a society now in which a two-worker family is the norm rather than the exception. When I was growing up, it was very seldom that the mother of the household worked. The father worked and the mother stayed home and took care of the family and the children.

That is not the case anymore. We find that fully 80 percent of mothers now are working mothers. These mothers have young children. These young children need support and they need nurturing and they need supervision. Thanks to the unstinting efforts of our distinguished friend from Connecticut, Mr. DODD, this package will provide for that.

Mr. President, this package is better than what we have voted on before. It is infinitely better than the summit agreement that we produced a few weeks ago between the leadership and the administration.

I submit that it is better than the reconciliation package we passed just a few days ago. But whatever you may think about this package, it is certainly much better than political gridlock. It is better than sequester; it is better than stagflation, better than an outright economic depression, and all of these things could result from continued inaction.

To my colleagues on both sides, I say it is late in the day. I fear this is our last best hope. I urge quick adoption of this conference report, Mr. President.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico [Mr. DOMENICI] is recognized.

Mr. DOMENICI. Mr. President, first let me thank the chairman for his kind remarks and reciprocate by saying that Senator SASSER, a new chairman, came in at a most difficult time, and it has been a pleasure working with him. I am delighted we are here today presenting this conference report.

Mr. President, this great ordeal of putting together a $500 billion deficit reduction package is going to end, finally. I am hopeful it ends with us approving this conference report, as the House did last night. When we send it over to the President, I am hopeful he will sign it.

Having said that, there can be no doubt that if the Senator from New Mexico was drafting his own budget deficit reduction package, this would not be it. But obviously, none of us have the luxury of writing our own plan.

As a matter of fact, the American people think the President of the United States is very powerful. In our system, he does not enjoy such a luxury. So we have moved from May 6, when the President asked us to get together, on bipartisan basis with his people, and come up with a deficit reduction plan. We have moved through these past months to this day.

We have had some extreme highs when things were going well, and we have had some extreme lows when things went very bad. I guess we are here today somewhere in the middle.

We are about to approve a package of $492 billion in deficit reduction over 5 years. As it is adopted, and if it is signed, and I think it will be, with the enforcement over the next 5 years of the caps on discretionary accounts, all of the necessary changes in the law, and all of the savings will have been achieved. So, we do not have to vote again next year on a piece of this package. It is done.

We have to maintain and enforce remaining year caps on defense, discretionary, and foreign affairs, and we have to carry out the new pay-as-you-go policies. If there are new programs, they have to be paid for, and if they are not, they will suffer the fate having a sequester against entitlements to make sure they are deficit neutral. In a nutshell, that is where we are today.

Mr. President, this Senator is not wise enough, nor do I purport to know enough to suggest that this package is the cure-all for the American economic woes of today and of the next decade and for the future. But I do submit that I am wise enough and know enough that it will be worse for America, worse for this decade, worse for our children, if we do not reduce this lingering pervasive deficit now.

I repeat, I would have much preferred moving in the direction of more structural reform in programs that spend money, but we did the best we could. There are 10 committees, Mr. President, 10 standing committees of this Congress that had input into this package. They all had to do some things. Some did it right; some did it three-quarters right; some did it in ways that we do not like; some made savings in ways that we would like to take out of this package. Certainly in the areas of OSHA, areas of pension reform, taxation, and a number of others, we would like to change their proposals. But this was the result of committees working to meet their targets.

While this package is finished, policy does not remain static in the future, and there are many opportunities to work better ways on some of these policies in years to come.

With reference to the entitlements, there are not as much savings as I would like. But the Senate should also know there are about $5.7 billion less in taxes in this package, than the bill that passed the Senate, about $5.7 billion less in taxes on the American people. I think when you add all that

up, this package deserves to be supported.

I have no illusions. There will be some Americans who will say, we are finished, good, we are starting to get the deficit down. Others will say, "I do not like the way it was done. I do not like to pay any new taxes. I do not like my program changes."

We have learned in the last month that you cannot take $490 to $500 billion out of the current policies of this country without affecting someone. You cannot affect the air; you cannot affect an image; you have to affect someone, somewhere, somehow. And that has happened.

Mr. President, I suggest that the reason I am concerned and the reason I think we ought to get this done is very simple. There are many who worry about Federal Government programs. There are many worried about how we are going to have room to adopt new ones in the future.

This Senator feels that the best social program around is a prosperous, growing American economy. I believe the best social program is a job. I believe the best social policy is jobs and opportunity. I submit that everything else about policy comes second.

An American economy that is in recession is an American economy that cannot provide for growth. Everything about recession is negative and detrimental to the American people and to our future. So it must be that growth is good, because it is the exact opposite of recession.

It seems to me that sooner or later we had to bite the bullet and reduce the deficit substantially, in a way that is a compromise with the President, between Democrats and Republicans, ways that some Republicans do not like, some Democrats do not like, and some parts that the President does not like. But, overall, if our primary goal is to reduce the deficit substantially and permanently, not because we just want to make things difficult, or because we want to change programs, or because we want to put mandatory caps and targets on the U.S. Congress for the next 5 years, none of those things are what we really want to do.

What we want to do is give some breathing room to the American economy, so dependent upon capital and borrowing. The American economy is filled up over its head with borrowed money, money from here and from abroad; we are going to take one great big slice out of the deficit here, albeit in some ways I do not like. And the package is real; the package will carry out what it states. The new reforms will see to it that we carry them out, or we will need super majorities in the Congress to vitiate them.

So, overall, Mr. President, I believe we ought to get on with it, stop the bloodletting, stop the ordeal, and get it adopted.

From this Senator's standpoint, many ask, "Have the processes been changed enough? Will these reconcilized changes actually yield deficit reduction, or will they be spent? Is this smoke and mirrors?"

I want to answer all these questions. Americans who will pay new taxes and have programs changed and reduced ought to know that their sacrifice will, indeed, go toward deficit reduction. There is no way in our democracy and in our Congress that you can absolutely and unequivocally commit to that. But to the best of our ability, we have seen to it that this deficit reduction is credible. It will get carried out automatically by the rules we have changed and the processes we have adopted.

I think that is probably as strong a part of this package as anything we have done. For the next 5 years, we will be able to enforce this agreement against the fiscal policy, desires, and goals that others set in the Congress in ways that I think are far better than anything we have had in modern times.

Having said that, I know there are a number of people who want to speak. I wonder if the Senator from Tennessee has anyone that wants to speak. I had the Senator from Florida on my side, but as soon as the Senator is ready to yeld to me, I will call on him.

(Mr. BRYAN assumed the chair.)

Mr. SASSER. Mr. President, I have the Senator from Texas, to whom I yield 15 minutes.

Mr. BENTSEN. I thank the distinguished manager of the bill.

Let me at this time say how much I appreciate the job that the distinguished Senator from Tennessee, the chairman of the Budget Committee, and the ranking member, the Senator from New Mexico have done on this piece of legislation.

Mr. President, I do not know anyone who is happy about having to make this tough political vote to reduce the deficit.

The hard fact is, though, that it is time to pay the bill for a decade of indulgence, a decade of kiting not checks for $200 billion a year.

People go before chambers of commerce and make their speeches about why we have to reduce the deficit, but when the painful choices are before them they choose, year after year, not to face up to the task.

Decision time is now.

In the 1980's:

We tripled our national debt.

Most American families had to work harder just to stay even, but the top 1 percent—the very richest people in America—saw their family income almost double.

Private savings rates plunged to post-war lows.

Home ownership rates declined for young families for the first time since World War II.

We accumulated a trade deficit of $845 billion, thanks in part to a growing dependence on foreign oil, and

We saw our transportation system begin to crumble. Federal spending on highways decreased by 13 percent in real terms, even though we wound up the decade with a $10 billion surplus in the highway trust fund.

Today, our economy is faltering. We've lost 600,000 industrial jobs over the last 6 months.

Prospects are that we will be losing more jobs in the months ahead.

If we fail to reduce the deficit and reduce borrowing by the U.S. Government—at a time when the demand for credit is growing around the world—if we fail in this task, then our prospects are bleak indeed.

We simply have to lower interest rates in this country in order to give our economy a chance to recover.

We can not count on Japanese and German and British investment to carry us along like they did throughout the 1980's. Japanese interest rates were well below ours through the eighties, but they have grown to roughly equal ours over the past year and investments in this country don't look nearly so good to them these days.

So far this year, in fact, foreign interests have taken more investment out of this country than they have put into it.

During the decade of the eighties, the effective tax rate of the top 1 percent of Americans fell by more than 14 percent, while the tax rates of most Americans were going up.

I am convinced that most high income Americans believe they should bear a bigger share of the burden.

Look at Sam Walton from Arkansas, one of the richest men in this country. Ross Perot from Texas not too far behind him. Both have acknowledged in recent weeks that they should be paying more taxes.

We have produced a deficit cutting package that does a good job of insuring that the burden of deficit reduction is shared with those who make the most paying the most.

It doesn't do the job in as straightforward a fashion as I would have preferred. I wanted a 33 percent top rate. But we could not get that.

But while we could not get everything in the package, it gets the mob done and in a way that is fair and equitable to all Americans.

Let us look at how we've done that.

The bill raises the top tax rate to 31 percent for the wealthiest six-tenths of 1 percent of taxpayers, those making over $200,000 a year. It also takes additional steps to make sure the wealthy shoulder the bulk of the burden. It pushes the HI wage cap to $125,000 to help keep the hospital trust fund solvent. And it phases out the personal exemption for taxpayers with incomes above $100,000 a year.

It holds the limitation on itemized deductions to 3 percent, which is a matter of concern to charities and States with high income taxes.

The bill cuts the budget summit agreement's gas tax increase from 12

cents a gallon down to a nickel. That helps motorists everywhere, particularly those in rural States.

The tax increase on tobacco is the same as the summit agreement—a 4-cent-per-pack increase in 1991 and another 4-cent increase on 1993.

On alcohol taxes, this bill sticks closely to the summit agreement. The tax on a bottle of wine would increase by 21 cents, by 16 cents on a six pack of beer, and by about 20 cents on a bottle of hard liquor.

We expanded the earned income tax credit—the EITC—which helps working families of modest means. We provided a child health insurance tax credit and crafted a special tax credit for low income families with children under a year old. We also beefed up child care services to help people remain self sufficient and therefore stay off of the welfare rolls.

The crisis in the Persian Gulf has underscored our vulnerability as a nation to imported oil. It should be plain to everyone that we have to take steps to cut back on this dangerous dependence on foreign oil. This bill does that by providing energy incentives to promote oil and gas exploration and production here in the United States and encouraging use of ethanol—a cleaner burning alcohol fuel—to reduce our dependence on petroleum fuels. Most of these incentives would be fully available only if the price of oil drops below $28 per barrel, so they will kick in when the market alone doesn't provide sufficient incentive. At $2.5 billion, this package is about $100 million less than what the President requested.

We extended expiring provisions through the end of next year: foreign allocation of R&D; the research and experimentation tax credit; employer-provided educational assistance; group legal services; the targeted jobs tax credit; two business energy credit; the low-income housing credit; mortgage revenue bonds; small-issue manufacturing bonds; health insurance for the self-employed; and the orphan drug credit.

On the spending side, we've had protracted negotiations to finalize the provisions on Medicare and Medicaid. In the end, we achieved Medicare savings of $44 billion over 5 years. Of this total, $10 billion comes from beneficiaries by extending the 25 percent share of part B and increasing the deductible to $100. Previously, the proposal included taking the deductible of $150 and including 20 percent of lab coinsurance—$34 billion in savings comes from providers.

In addition to these savings, we also achieved some significant Medicare Program improvements, including addressing the rural-urban differential, protecting low income elderly from increases in the Medicare premiums and deductible, and extending health insurance to children whose family incomes are below the poverty level. In Medicaid, we have reached our reconciliation target and propose $2.3 billion of initiatives which are paid for.

Mr. President, everyone, of course, can find something they wanted that's not in the package. Everyone can find something in the package that they fervently believe should not be in there.

Today we can put aside partisan differences, do what is right for this country. The American people have had to endure 5 months of posturing and bickering. They have seen the Government shut down—just lock the doors—and they deserve better than that. They are tired of this chaos. They expect and they deserve a positive result, one that will help us get this Nation's books back in order. That is why we must pass this conference report.

In an ideal world, this kind of drawn-out process might not have to happen. Everybody involved could have written his or her own deficit plan. We would have 535 from the Congress, and the President might submit two or three. Then there are those who are just looking for excuses for voting against this bill in order to gain political advantage.

But this is the real world, and we are having to settle up on that decade of indulgence. The bills are past due, and—as the President and the Congress have agreed—that means raising tax revenues and cutting spending.

Now it is time for all of us in the Senate to pull together one more time, pass this effective and fair bill and send it to the President for his signature.

I yield the remainder of my time to the manager of the bill.

The PRESIDING OFFICER. Who seeks recognition?

Mr. SASSER. Mr. President, before yielding the floor I want to express my appreciation to the distinguished Senator from Texas, the chairman of the Senate Finance Committee, for the splended job he did over the days, weeks, months, and the long nights of hammering out a revenue package and an entitlement package that I think is truly historic in its scope and in the manner in which it treats the needs of the people of this country. I want to just say on behalf of all of our colleagues, that we owe, I think, a real debt of gratitude to the distinguished Senator from Texas. He has produced a product that he can be justly and rightfully proud of.

Mr. BENTSEN. Mr. President, I thank the Senator. I deeply appreciate the generous comments of the distinguished Senator.

The PRESIDING OFFICER. The Senator from New Mexico [Mr. DOMENICI].

Mr. DOMENICI. Mr. President, I join in those accolades and add to that the distinguished ranking member, Senator PACKWOOD, who worked along with the chairman. Considering they are not free to do it their way either, they had to work with the House, I think they have done a good job. I compliment the Senator from Texas and Senator PACKWOOD.

Mr. BENTSEN. I am delighted to include Senator PACKWOOD. We worked side-by-side in this and it was a truly bipartisan effort.

Mr. DOMENICI. With the permission of the chairman, I was going to yield to Senator MACK, but Senator JEFFORDS had asked if he could have a minute. I yield 1 minute to him and then 5 minutes to the Senator from Florida. I so yield.

The PRESIDING OFFICER. The Senator from Vermont [Mr. JEFFORDS] is recognized.

Mr. JEFFORDS. Mr. President, I rise in support of the conference report which is before us. I am sure we all say there is something we would like to have changed if we could have, but we could not.

Mr. President, the public is rightly angry at what has unfolded in Washington over the past few weeks. Congress has proven itself a day late and a dollar short.

We tend to focus on a tremendously short timeframe, one that right now is literally on an hour-by-hour basis.

While understandable, it's regrettable. We operate so much in the present that we give far too little attention to both the past and the future.

The eve of adjournment is hardly the time for a long-winded speech on our fiscal history or future. But a few points are worthwhile to keep it both in perspective.

Today's action will not solve our fiscal problems. Today we are just putting a down payment on the deficit.

A deficit that has been a decade in the making is not going to disappear with one deft compromise. It may well take as long to fix as it took to create.

Where did this deficit come from? Well, you have to remember that the Reagan administration, with an overwhelming mandate from the American people, and from Congress, set out to do several things.

First, it wanted to cut taxes. In 1981, it succeeded in doing so. And in bits and pieces, we have engaged in an almost annual exercise of recouping the revenues lost in that tax bill.

Second, the Reagan administration wanted to increase defense spending. Congress more than obliged, with an unprecedented peacetime military buildup that outpaced the growth of our economy or revenues.

Finally, the White House wanted to cut domestic spending and regulation. The tools would be deregulation, federalism and the hammer of a burgeoning Federal deficit.

What happened? Well, the operation was a success but the patient died. The White House was tremendously successful, but the country is now suffering. The national debt tripled despite a recordbreaking peacetime economic expansion. We went from being the

world's biggest creditor to the world's largest debtor nation.

The specifics are not any prettier. The tax breaks provided in the 1981 package were largely poor policy and have in large part been reversed. While the continued policy of containment no doubt hastened the change in the Soviet Union and Eastern Europe, defense spending, even without the benefit of hindsight, was far more than was needed and far more than could be accounted for properly.

States have been given more responsibilities without the resources to pay for them. Deregulation has produced mixed results, the most notable of which is the biggest financial scandal in the history of this country.

To be fair, responsibility lies with both ends of Pennsylvania Avenue. We all like to cut taxes, we are all for a strong defense, and we all want to help people with genuine needs. We were all part of a conspiracy to keep the deficit under wraps so that—depending on our particular interest—our priorities would not suffer.

But the illogic of this conspiracy was that ultimately all these interests would suffer, if for no other reason than the fact that servicing the debt would put more and more pressure on our markets and budget.

Gramm-Rudman-Hollings brought this point home. Not dramatically at first, because we were talented enough to come up with several years of "slidge-by" budgets.

But this year even our ingenuity was taxed. We are doing what we should have done years ago and acknowledged that we have serious problems.

But even though $500 billion sounds like a lot of money, I fear it will fall short. The assumption that underlie this package read like economic science fiction—except for the fact that science fiction sometimes comes true.

But it's a start, and probably as prudent as we can make with a fragile economy.

I plan to support the budget agreement. I made my views clear when the Senate proposal was before us, so I will not reiterate them at length here. Suffice it to say that the bill before us today is more progressive than that we adopted last week. It relies less on regressive excise taxes on asks more of those able to pay.

Neither I nor any other Member of Congress is perfectly pleased by the package. But we did scale back the cuts in Medicare, we did burst the bubble, and we did reduce the gas tax.

There is still plenty of poor policy in the package. We slap an excise tax on a six-pack of beer but say that a setting of six sapphires does not qualify as a luxury. We discourage pension plan formation and set labor law penalties with no regard to their policy implications.

As an example, the labor committees have agreed to a sevenfold increase in penalties under the Occupational Safety and Health Act. I happen to believe that some increases in OSHA penalties is warranted. But clearly what drove us was the need to meet our budget targets, not the need to examine what constitutes effective enforcement policy.

I understand there may be some effort to construe our action as having some meaning for state plan States. It may be that state plan States should increase their penalties. I don't know, as the issue never came up in the conference. But the standard the Department of Labor should continue to follow be the overall effectiveness of a state plan, which is based on the sum of its individual components.

And for reasons that escape me, we have decided to put an excise tax on life insurance that may double companies' tax burden—a burden entirely divorced from profitability. Discouraging the purchase of life insurance is hardly an enlightened policy.

Home heating oil will not be taxed, but oil products will get a windfall. We are doling out $2.5 billion in tax breaks to oil producers at a time when oil has bounced up and back to $40 per barrel and there seems to be little room in the budget for conservation or alternative energy efforts.

But while all of us can judge this bill on its component provisions, we need to bear in mind the long-term policy implications as well.

As I've mentioned, the policy implications in the labor provisions are disturbing. But even more troubling is what this bill means for agriculture, particularly for the dairy industry. The dairy price support system was designed as a "balancing wheel." The deficit has dismantled the wheel and removed the support. But the farmers will be charged more and more to pay for less and less.

And while the Medicare changes have been looked at fairly narrowly, as a question of how much beneficiaries will pay, they raise much broader questions.

Year after year we have ratcheted down reimbursements. But at what price? Hospitals in my State and in rural areas across the country are having tremendous problems. The broader health care issues are deferred time and again—that is, until we need to reduce the deficit.

We can pat ourselves on the back for this package. We can breathe a sigh of relief, go home, and try to explain our mess to the voters. But the tough choices, in my mind, are not being made today. They are being left for tomorrow.

Mr. MACK. Mr. President, I rise today to protect the economic wellbeing of our Nation. I rise to point out the main weakness of this particular conference report.

I do not rise, though, with a sense of antagonism toward the leadership in either party because I recognize, as I hope they will recognize, from my perspective, I approach this from a proper motivation.

What has been clearly said by the speakers so far is that their overwhelming objective is to reduce the size of the Federal deficit, but I make the argument that we are best going to accomplish that by finding ways of creating economic activity in this country; by finding ways of stimulating growth; and by finding ways of encouraging people to start new businesses to employ more people.

I point out during the 1980's, average growth of new businesses—that is the startup of new businesses—averaged about 7 percent each year. We are now seeing a very disturbing set of statistics come forward.

Some say the growth in new business has absolutely come to a standstill. Others are reporting that for the first time in 10 years, we are now seeing a negative growth in new businesses around the country.

My colleagues might ask the question why is that occurring?

The growth occurred in the 1980's because of the wise decision made in 1977 to lower the capital gains tax rate from 49 percent down to 28, and eventually down to 20 percent. As a result of that we saw capital flow into the venture capital market around the country.

Believe it or not between 1969 and 1977, there was an average of $59 million a year in what is referred to as the formal venture capital market in this country; $58 million, not billion. After the cut in the capital gains tax rate in 1977, the amount of funds flowing to the venture capital market increased to $600 million; the year following that, it increased to $900 million, and today the venture capital market has increased to where it is over $4 billion a year.

Capital is available for people who want to take risks, capital is available for people who want to start new businesses, and as a result of those new businesses, jobs are created.

Anyone who takes a look at the 1980's will recognize that of the 20 million new jobs created, 80 percent of those came from small businesses. The problem with this particular conference report is that it has nothing in it to encourage the formation of capital. It has nothing in it to encourage the formation of new businesses and the creation of new jobs.

It is little wonder that the U.S. Civil Rights Commission recently came out with a statement which reflected its members' unanimous opinion that there should be a lower capital gains rate. In fact the Commission suggested a zero capital gains rate in areas of very high unemployment in the country.

The Commission supported a freeze in spending and asked that there be no further increases in taxation.

So I suggest, Mr. President, that if we were really serious about deficit reduction in this country, we would focus in on lowering the capital gains

tax rate. The result of a lower capital gains tax rate will increase the flow of funds into Federal coffers; it will increase the amount of money that is available in the venture capital market; it will help in the formation of new businesses and the creation of new jobs.

So, again, it should be no surprise to anyone that I am going to oppose this legislation and I do so, as I have said in the past, because of the tax increases, the failure to control Federal spending, and the failure, most important, to focus on the need to follow policies that create growth. I yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. The Senator from Iowa is seeking recognition on the time of the Senator from New Mexico.

Mr. MACK. If the Senator will yield for a moment. Mr. President, I ask unanimous consent to have several articles that relate to my statement printed in the RECORD. One article is an editorial from the Wall Street Journal. The other is the news release from the Civil Rights Commission. A third is a statement by Secretary Kemp to the Federal City Council annual meeting.

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

SOAK THE POOR

Who speaks for the poor in the current budget drama? The Democrats? George Mitchell? Dan Rostenkowski? Bob Dole? Dick Darman? We suspect the short answer is that no one much thinks about the poor in Washington these days. The battle is over the middle class, because that's where the votes are and that's where the tax money is. The poor and the working poor are along for the ride. Some ride.

The Democrats in Congress, abetted by at least three or four members of the Bush administration, purport to stave off a recession by raising taxes $149 billion across five years. Yes, we know, they have attached a theory to this: Short-term interest rates will drop maybe 100 basis points and the American economy will climb to the stars. A few folks, however, hold to the view that this game plan is more likely to drive any recession deeper and that the people hit hardest aren't the soaked rich or even the middle class. It's the poor. Both the U.S. Commission on Civil Rights and Jack Kemp are now trying to raise this argument in Washington.

On Tuesday, the Civil Rights Commission voted 6-0 in support of a resolution warning that the current thrust of the budget could cause economic difficulties for minorities, women and the disabled (Commissioner Mary Frances Berry abstained from the vote). "We request on behalf of America's disadvantaged," the commission said, "no general spending increase and no general tax increase." Instead, the commission would freeze spending at the fiscal 1990 level.

It called on the President and Congress to be aware of "the importance of continued economic growth to the advancement of civil rights in this country. In bad economic times, black and Hispanic unemployment rates rise the fastest."

Of course, none of the current budget incarnations has specifically growth-oriented provisions in the budget. So the Civil Rights Commission proposed one of its own: a capital gains rate of zero for those who "live, work and invest" in the depressed inner cities. This proposal, of course, has zero chance at the moment; the Democrats' soak-the-rich philosophy is colorblind.

No one has attacked the hopelessness of the status quo more than HUD Secretary Jack Kemp, and he did so again in a speech earlier this week, calling on Congress to get growth back into its deliberations. Secretary Kemp would raise the top marginal rate on incomes to 31%, while cutting capital gains to 15%. He also usefully pointed out that the grand plan to cut $500 billion over five years "began when the economy was stronger and there was no foreign policy challenge as we face in the Middle East today. In my view, it's not logical to adopt sharp tax increases in the face of such an uncertain future." He too favors a one-year spending freeze.

As to economic opportunities for the poor, Mr. Kemp pointed out that the number of black-owned businesses grew almost 50% from 1977 to 1982, a period that began with the Steiger Amendment cutting the capital gains rate to 28% from 49%.

We can already hear the solons of Washington pooh-poohing the Kemp and Civil Rights Commission interventions. It looks to us, though, as if the Beltway is giving the poor little more than more of the same. With a recession looming, Mr. Kemp and the commission are at least trying to do better than that.

U.S. COMMISSION ON CIVIL RIGHTS RAISES CONCERNS ABOUT FEDERAL BUDGET DEFICIT-REDUCTION EFFORT

The U.S. Commission on Civil Rights urges the President and Congress, in their efforts to reduce the federal deficit, to be fully cognizant of the importance of continued economic growth to the advancement of civil rights in this country. In bad economic times, black and Hispanic unemployment rates rise the fastest. In good times, a tight labor market encourages employers to cast a wider net when hiring, thus breaking barriers that have traditionally prevented minorities, women and persons with disabilities from gaining better paying jobs. Civil rights laws can do little to expand opportunities for members of historically disadvantaged groups when opportunities for all Americans shrink. Strong economic growth is important for creating a climate for effective civil rights policies.

Strong economic growth can also be a powerful force for cutting the federal deficit. A growing economy means more and better paying jobs, which expands the tax base. Policies that encourage savings and entrepreneurial initiative create a growth dividend which will reduce the deficit.

The Commission recognizes that deficit-spending can stifle economic growth, and encourages deficit-reduction efforts. However, plans for balancing the budget that would also reduce the incentives for individuals to work, save, and invest are likely to be self-defeating. This is the great danger in trying to control the deficit through new taxes.

We therefore call on the President and Congress to adopt only those deficit-reducing proposals consistent with economic growth. Specifically, we recommend freezing real total government expenditure at the fiscal 1990 level.

The Commission recommends that the President and Congress focus on developing policies that will spur both general economic growth and, in particular, growth in the depressed urban and rural areas of our nation. For those who live, work and invest in the depressed areas of our inner cities, for example, we urge cutting the capital gains tax rate to zero, establishing enterprise zones, and other social and job-creating initiatives to help restore economic prosperity to these areas. Overwhelmingly, the residents of these areas suffer the legacy of past discrimination and the limitations of current civil rights laws and policies to promote equality of opportunities. Policies to stimulate growth in depressed areas would not only foster the economic opportunities of residents of these communities, but would benefit many other Americans by helping to realize the full potential of our nation's wealth. Economic growth is not a panacea for this nation's civil rights problems, but economic stagnation will surely exacerbate them. Progress toward eliminating these problems can be accelerated by sustained economic growth and, equally important, aggressive enforcement of all civil rights laws and effective programs to provide educational and economic opportunities to those who have been denied.

In summary, we request, on behalf of America's disadvantaged, no general spending increase and no general tax increase.

The United States Commission on Civil Rights is an independent, bipartisan, fact-finding agency concerned with discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, handicap and national origin.

Arthur A. Fletcher is Chairman; Charles Pei Wang is Vice Chairman. William B. Allen, Carl A. Anderson, Mary Frances Berry, Esther G.A. Buckley, Blandina Cardenas Ramirez and Russell G. Redenbaugh serve as Commissioners. Wilfredo J. Gonzalez is staff director.

REMARKS BY JACK KEMP, AT THE FEDERAL CITY COUNCIL ANNUAL MEETING,

A PROGRESSIVE-CONSERVATIVE PRESCRIPTION FOR A NEW WAR ON POVERTY"

In the 1980's, the American economy experienced an unprecedented expansion, generated over 21 million new jobs—more jobs than Europe, Canada and Japan combined—and created more than 4 million new business enterprises. While the Nation's gross national product grew by 26.3 percent between 1983 and 1989, Federal tax revenues expanded by 35.7 percent, twice as fast as they did in the 1970s. Federal income taxes paid by the top 1 percent of taxpayers surged by over 80 percent—from $51 billion in 1981 to $92 billion in 1987.

The Reagan-Bush Administration rediscovered the classical prescription for non-inflationary economic growth: i.e. sound money, income tax rate reductions across the board, and reductions in the growth of government spending and regulation. As a result, the entire world was lifted to a higher vision of what democratic capitalism could achieve in creating wealth and opportunity for people. Indeed, by decade's end, the leader of the socialist world—the Soviet Empire—had become an economic basket-case. The intellectual and political case for socialism collapsed.

As we enter a much tougher economic climate and experience slower growth, the answer is not to choke off expansion with higher taxes, but to stimulate the economy with President Bush's cut in the capital gains tax rate. Cutting the capital gains rate will free up investment capital for entrepreneurship, small businesses, and new job creation, generate billions of dollars of revenues to State and Federal treasuries, and add value to the financial assets of our Nation.

The creation of new businesses, the unleashing of innovative ideas invigorates economies and markets. Economic growth in the 1980s confirmed that real wealth comes out from physical resources, but human beings; not from mere things, but from the ideas, talents, and efforts of our people. That's why the President and some courageous Republican legislators like Senator Bob Kasten of Wisconsin, Senator Connie Mack of Florida, House GOP Whip Newt Gingrich, and Congressman Vin Weber of Minnesota want to add capital and labor based incentives to the tax code, such as the capital gains tax cut, Enterprise Zones, expanded IRAs, and a higher earned income tax credit for the working poor.

While the 1980's was a period of unprecedented economic expansion, parts of our Nation and some of our people have been left behind, or worse left out. Success has not been the whole story of the 1980's . . . grinding poverty and homelessness, violent crime and drug abuse, the growing number of broken families and mothers on welfare. These are the deeply disturbing, even alarming problems, that signal ongoing deterioration in many communities, especially minority communities.

In 1984, New York's Governor Mario Cuomo was cheered at the Democratic Convention with his tale of America as two cities, one rich and one poor, permanently divided into two classes. But with all due respect to his great rhetoric, the Governor got it wrong. America is not divided into two static classes with redistribution and envy the only answer. Our Nation is divided into two economies, one democratic capitalist, based on private property; the other is near socialist, government-directed, and based on public ownership of property.

Our macro and mainstream economy is market-oriented, entrepreneurial, incentivized for working families; it rewards work, investment, saving and human output.

The second economy, all too often in our inner cities, is similar in many ways to Eastern European, or Third World "socialist" economies. It is predicated on rules, regulation, and disincentives almost totally opposite to the way people are treated in our mainstream economy. It has built barriers and disincentives to productive human and social activity, almost eliminated economic incentives and rewards, and has linked effort and reward in perverse and counterproductive ways.

This second economy almost guarantees poverty and dependency: It rewards welfare and unemployment at a higher level than working and productivity; It taxes and regulates the entrepreneur who wants to succeed in the above ground capitalistic system, while rewarding the underground or gray economy of illicit capitalism; it rewards people who stay in public housing more than those who want to move up and out into private homeownership; it rewards the family that breaks up rather than the family that stays together; it encourages debt, borrowing, and spending more than saving, investing, and risk-taking. But worst of all, it weakens and in some cases destroys the link between effort and reward.

The irony is that the first war on poverty and much of our welfare system was created in order to help the poor, to alleviate suffering, and provide a basic social safety net. But despite the noble intent, it has lead to dependency, welfare bureaucracy, and near pathological social conditions for some. Our country is now reaping this whirlwind in terms of abandoned children, homeless women and children, unemployed fathers, and crack addicted babies . . . despair not hope, poverty not opportunity.

Examples abound of how disincentives have created poverty in inner cities. I recently read a Wall Street Journal article about a woman on welfare in Milwaukee, Wisconsin who tried to put away a few pennies, nickels, dimes and dollars so that one day she could do what every other mother wants to do, send her daughter to college. She managed to build a savings account of just over $3,000, but there was a catch. The social welfare agency said she was violating welfare rules. She was taken into court, prosecuted for fraud, and fined $15,000. But since she didn't have $15,000, they just took her $3,000, gave her a year's sentence in jail, suspended it . . . and traumatized her life.

Guess what? According to the same Wall Street Journal article, she now spends every cent she gets, and she must rely on government subsidies to pay for just about everything. Incidently, the story may have a good ending for this woman. After I talked about her in a speech, a man came forward from the audience and offered to finance a trust fund for the cost of a college education for the young girl.

The startling fact in America today is that the highest marginal tax rates are not paid by the affluent, but by welfare mothers or unemployed fathers who want to take a job. In most cities, a welfare mother must earn $15,000-$18,000 in wages to equal the average welfare payment. According to a study by Christopher Jencks and Kathryn Edin in the American Prospect magazine, a working mother with two children, employed at about $5 an hour, would net minus 45 cents per hour. She would lose about $4 a day after taking into account lost government benefits, taxes, and work-related expenses such as transportation and child care.

Eugene Lange, a wealthy businessman from New York City, also believes in the power of incentives to produce postive behavior. According to the New York Times, he went into PS 121 elementary school in East Harlem and told children that if they stayed in school, got good grades, stayed drug free, and qualified, that he would personally pay for a college education. Talk about behavior modification! Whereas, 60 percent of those children were dropping out, today 90 percent are in their first 2 years of college.

Public housing is another example of government policies perpetuating a poverty trap with disincentives to work and strong families. Because public housing authorities charge rents based entirely on a tenant's income, those rents actually could jump by 600 percent or more if the tenant gets married or takes a job. In some cases, rents exceed those charged in the private sector for similar dwellings.

We're instituting a new policy at HUD that sets "ceiling" rents at no higher than the market level. If a tenant takes a job or gets married, the rent increase will be put into an escrow or savings account, which will be released to the family when they leave public housing to pay, for example, for a downpayment on their first home. We want public housing—indeed all public assistance—to become a platform for self-sufficiency, not a trap of dependency. HUD used to give awards for public housing residents who stayed in public housing the longest. We stopped that. Now, we're offering incentives to public housing tenants who move up and out into the private sector.

The heavily-regulated U.S. housing market is another example of government-created scarcity. Rent controls, exclusive zoning, and buiding codes have crippled low income rental housing markets in many cities. Ironically, rent controls mostly help the wealthy and hurt the poor. The New York Times recently editorialized that "Perversely, many poor families are the harshest losers from rent controls . . . rent control has benefited the lucky, not the needy."

The real effect of rent control is to subsidize many upper and middle-income families who pay rents much lower than they would without regulation. Because the incentive is for these families to stay in rent controlled apartments, these homes are not available for those with lower incomes. According to the Times, "some families in the highest income groups became even richer by buying apartments they rented, reselling them later at 10 and 15 times what they paid." Affordable housing is a real challenge, and we in the Administration are taking steps to solve it. State and local governments must not make our task more difficult by imposing counterproductive, market-destroying regulations.

Another glaring example of counterproductive government policies is how HUD subsidizes vacant public housing. It has been costing the taxpayer over $1,300 per unit to subsidize vacant public housing often used as crack houses for gangs and drug pushers. We've started a policy called Operation Occupancy to subsidize only those units actually occupied by low income people. But this important victory isn't won yet. Some on the joint House-Senate Conference on the Housing bill are trying to overturn our policy.

The good news is: government policies can change; more importantly, people do respond to rewards. Productive human effort can be promoted; behavior can be modified or altered; work effort can be unleashed. Entrepreneurial talent is alive in the inner city. President Bush said making this happen means "giving people—working people, poor people, all our citizens—control over their own lives. It means a commitment to civil rights and economic opportunity for every American."

The Bush Administration is pursuing and expanding a national agenda to help low income people combat poverty and despair. In his recent speech to the joint session of Congress, President Bush mentioned part of this agenda—and these were the only domestic goals he spoke of not directly affected by the Persian Gulf Crisis.

First, President Bush wants to cut the capital gains tax not to help the rich but to help the poor get rich or richer in terms of opportunity. As Abraham Lincoln said, "When one starts poor, as most do in the race of life, free society is such that he knows he can better his condition in life. I am not ashamed to confess that twenty-five years ago I was a hired laborer, mauling rails, at work on a flatboat—just what might happen to any man's son! I want every man to have the chance—and I believe a black man is entitled to it—in which he can better his condition—when he may look forward and hope to be a hired laborer this year and next, work for himself afterward, and finally hire men to work for him. That is the true system."

In the spirit of Lincoln's vision, President Bush has asked Congress to cut the capital gains tax rate to 15 percent for the Nation, and establish Enterprise Zones, as a national policy to generate jobs, opportunities, and minority enterprise in our Nation's most distressed communities.

I believe we should set a goal of doubling or tripling the number of minority business enterprises over the next decade. Earl Graves of Black Enterprise magazine has pointed out that black-owned firms are still just 3 percent of all U.S. companies, with only 1 percent of gross receipts. This is not just a tragedy for the Afro-American community, but for all minorities. Worst of all,

it hurts all of us to have so many of our people lacking access to capital, property, and resources.

Cutting the capital gains tax rate has worked before and it can work again to powerfully stimulate minority businesses and job creation. In 1978, the Steiger amendment slashed the capital gains tax from more than 50 percent to 28 percent; in 1982, the Reagan/Bush tax cuts began to take effect, including our cut in capital gains to 20 percent. What happened?

Between 1977 and 1982, the number of black-owned businesses increased by 33 percent, and new Census Bureau figures show that, between 1982 and 1987, the number of black-owned companies jumped 38 percent—growing two-and-a-half times faster than all new business formations in the same period.

While the 1986 tax reform lowered income tax rates across the board, Democratic leaders in Congress extracted a high price by demanding a 65 percent increase in the maximum tax rate on capital gains—one of the largest increases in U.S. history!

Considering inflation, the real capital gains tax rate, according to a study by economist David Goldman, easily may be 75 percent or more. This punitive tax is staggering the entrepreneurial sector. Columnist Warren Brookes estimates that investment, which was growing at more than 7 percent annually before the tax hike, has slowed by 50 percent, and new business formation is actually declining for the first time in 10 years.

No one is hurt more by this than the poor and minorities who must have access to the seed capital that a capital gains tax cut would unleash. In the Journal report, Harry Brooks, CEO of a large black-owned business in California, took note of a shortage of capital, saying: "as you start growing, you use cash at an accelerated pace. If you don't have some semblance of deep pockets, you can be profitable and still go out of business."

The resistance of capital gains tax reduction by Congressional leaders is counterproductive to our national goals of winning a war against poverty. The capital gains tax is not a tax on the rich, it's a tax on the creation of wealth. If the tax code taxes wealth at such a high rate that the wealth disappears, jobs and small business creation will be destroyed. As jobs disappear, the poor will suffer the most. To make it worthwhile for people to innovate, to risk, and to create wealth, we've got to set a lower tax rate or risk income than ordinary income.

Second on the President's agenda is resident management and urban homesteading in public housing to empower tenants to achieve control of their housing communities and their dreams of homeownership.

Under President Bush, we've recently set a goal of creating more than 1 million new homeowners by 1992 through FHA and our HOPE initiative, Homeownership and Opportunity for People Everywhere, which has passed the House and Senate and goes to conference this week and next.

Post columnist William Raspberry wrote recently ". . . when assets are present, people begin to think in terms of the asset. If a young mother owns her own home, she begins to pay attention to real estate values, property taxes, the cost of maintenance and so forth . . . it is the assets themselves that create this effect, as opposed to just educational programs or exhortations toward better values."

Raspberry is right. Not only is homeownership and tenant empowerment a practical thing to do, it's a moral imperative, in our view.

Third, in order to create greater choice and independence, housing rental vouchers should be significantly increased and expanded. Low income families should have greater opportunity to live where they want and better access to affordable housing.

Fourth, tax reform is needed now to help remove more low income families from the tax rolls and dramatically increase the net income of welfare mothers and unemployed fathers who get jobs. In 1948, a median-income family of four paid almost no income taxes, and only $30 a year in direct Social Security taxes. This year, the same family's tax burden is over $6,000. To be as sensitive to families now, the tax code would have to set the personal exemption for the costs of nurturing children at well over $6,000 today.

Fifth, it is essential to expand the earned income tax credit, create up to a $6,000 exemption for children under 16, and pass the President's Child Care tax credit to roll back the huge tax burden on low income families and unemployed parents. These can be paid for, in part, by the additional revenues gained by cutting the capital gains tax rate to 15 percent, as Bob Kasten, Connie Mack, Newt Gingrich, and Vin Weber have all said. The capital gains tax cut would expand tax revenues at all levels of government by spurring new economic growth.

Sixth, for homeless people, the Administration's new Shelter Plus Care plan will expand community-based mental health facilities, drug abuse treatment, job training, and day care. Shelter and support services are the key to helping homeless Americans re-enter the mainstream economy. If Congress passes HUD's budget request for 1991, including the Shelter Plus Care initiative, it will represent a 62 percent increase in homeless assistance over 1990 and nearly 170 percent increase from 1989.

Seventh, to enhance education and opportunity, we must expand true choice and competition through magnet schools, education vouchers, tuition tax credits, and other choice-enhancing policies. Merit—plus champions like State Representative Polly Williams in Wisconsin and Council Member Keith Butler in Detroit—has rescued this idea from the partisan attacks of the past. Empowering parents with choice over the education of their children deserves strong consideration.

Eighth, Congress should pass President Bush's HOPE legislation, including IRAs for first time homebuyers, the low income housing tax credit, and Operation Bootstrap linking housing vouchers to strategies for gaining self-sufficiency.

Today's debate over how to help low income people is a debate between those who believe that people are a drain on resources and those who see that people are our greatest resource. It is a debate pitting hope and opportunity against the politics of envy. I believe that our greatest assets are not in the wealth we see around us but the potential that is unseen—minds yet to be educated, businesses not yet opened, the technologies not yet discovered, the jobs waiting to be created. Wealth is not what we've done, but what we have yet to do . . . and we've got a lot to do.

I've travelled to hundreds of distressed communities and I know entrepreneurial capitalism and empowerment can work to create the wealth and opportunities of the future. As we approach the 21st century, let us resolve to make our legacy a successful war against poverty. Let's unleash the greatest wealth our Nation has, the pent up talents and potential of our people.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. I yield myself 5 minutes off the time of Senator DOMENICI.

The PRESIDING OFFICER. The Senator from Idaho may proceed.

Mr. SYMMS. Mr. President, the Wall Street Journal had an editorial sometime last week. It went something like this, the "Remocrats and the Depublicans are at it again." I guess I would laugh, Mr. President, if it were not so sad to see the failure of not only the Congress but of the American people to be able to send a clear enough message to Washington that they would like to have programs put into effect that would either freeze spending, freeze spending with a modified growth rate, or let a sequester and fall, and reform the entitlement spending programs so that we could approach this from the spending side instead of approaching it from the taxing side.

What has happened here, Mr. President, is that we are going to witness a tax increase of several hundred billion dollars so we can have spending go up by over $100 billion. I note that my distinguished chairman, Senator BENTSEN, mentioned about people making the hard votes and how during the eighties it was the age of excesses and we ran up all these deficits.

This budget package we are hearing so much about is going to run up another one trillion, nine hundred billion dollars in debt in 5 years. So if we extend this program out for 10 years, we will do just about as well as we did during the eighties. We can run up two more trillion dollars of debt and then we can say we lived in excesses in the nineties and some other group of people in the Senate can get up and talk about how during the nineties we overspent and now we are going to have to do better at the turn of the century.

Like I say, Mr. President, it just makes a person want to sit down and cry to see how after 2 years of work on this, after the people had an election in 1988 where they chose a course for the country with a flexible freeze, no new taxes on one argument and the other side was tax, spend, business as usual, and then after 2 years of fighting we end up with tax, spend, business as usual. It is just absolutely heartbreaking to this Senator.

In my opinion, the American people know that the problem is spending, it is not taxes.

I have to say, Mr. President, that last week in this Chamber when I had the amendment up on striking the gas tax, I found it fascinating that the same people who constantly said that we do not tax the rich enough and we have to protect the middle- or low-income people more, turned right around and defended the gas tax, which is the most regressive of all taxes.

I compliment the committee as they have reduced it by $20 billion off the backs of the working men and women

in the country. The part that bothered me the most was in listening to the debate. I thought surely it was not that one sided in respect to how the response was with my colleagues. Then I went back and read the CONGRESSIONAL RECORD and found out that what really bothered me was true; that there were not really very many Senators who got up and said where would you suggest cutting $40 billion in spending, if you reduce the gas tax? What the proponents of this package said is what tax would you suggest raising to offset reducing the gasoline tax to pare the deficit? My answer, of course, is that the problem here is not to tax the deficit away, Mr. President; the problem is the Federal Government spends too much money.

I have to say that I have long been an advocate of the economic policies with respect to Government taxes and spending of Nobel laureate Milton Friedman, and he has always said it is what the Government spends that is the problem. Whether you borrow the money or directly tax people for it, borrowing is a tax on the working people. It is what we spend that is the problem, and we spend too much money. The Senate has heard this phrase plenty from this Senator this week.

I just think, Mr. President, we are skating on ice that is very thin. We have passed the Clean Air Act which will excessively regulate industry. We passed that today. And then today we also will pass another excessively regressive taxation program to provide disincentives for all kinds of different groups of people, for people who work and try to save, try to invest, try to hire people, try to insure people—whatever.

It is very discouraging to this Senator to see how well we had done, how many people had improved their living standards, and to see this Congress make such a rapid retreat from what has been an advance toward a better society for America. We are making a rapid retreat here today. I plan to and will vote against this package.

Mr. President, the Remocrats and Depublicans are at it again, so I will say it one more time. I have spoken in this esteemed Chamber on numerous occasions since a budget agreement was brought before the American people a couple of weeks ago. I have lamented on how the many budget packages, compromises and closed door agreements will send this Nation into a tailspin. Why would I say this—because in my opinion—spending is the problem, not a lack of revenue.

I believe my message of no new taxes and the need for reductions in Government spending is being heard in Idaho, and everywhere else outside the beltway. I think the only message being heard inside the beltway, however, is the need to raise taxes to pay for excessive and unneeded Government programs.

What brings me great grief is that there are alternatives to one of the largest tax increases in history. Nearly a month ago, myself and 10 of my colleagues introduced the 4-percent solution. The 4-percent solution was designed to limit increases in outlays to 4 percent per year and to provide for midyear sequesters to assure that deficit and outlay targets were achieved.

The 4-percent solution was ingenious in its simplicity. There were no tax increases included and the Government was even allowed to grow at 4 percent a year. When we introduced this solution to the budget morass, my colleagues and I were not taken seriously. How can we balance the budget without raising taxes and more importantly, how can we balance the budget with a simple 10-page bill instead of an eight inch thick reconciliation bill?

Another solution would have been to extend the continuing resolution, freeze spending of appropriated accounts at 1990 levels and go home. Again, no help from the taxicrats. A continuing resolution would have resulted in no new taxes and was too simple to comprehend.

Mr. President, an example of the attitude shared by many in this Chamber occurred during the floor debate on the budget reconciliation. In that debate, I introduced an amendment to strike the gas tax increase from the agreement. I stated that the gasoline tax is one of the most regressive taxes ever devised and that it hits hardest those least able to afford it.

I went on to say that families living on $10,000 to $20,000 a year spend twice as large a share of their income on gasoline as families living on $50,000 or more a year. Two-thirds of Americans oppose an increase in the Federal gas tax and this tax, which is compounded by the rise in gas prices caused by the gulf crisis, will only go to feed more government programs instead of an extra gallon or two of gasoline for somebody's gas tank.

When I introduced this amendment, one Senator asked me incredulously, "How do you make it up?" referring to the $45 billion of tax revenue that would be lost. I had no intention of making it up. I am not in favor of raising taxes period.

What amazes me, Mr. President, is the attitude that prevails here. I was not told that I did a great job of trying to alleviate a small part of the proposed tax burden to be levied on the American people, but rather, which taxes do I intend to raise to make up for the $45 billion of lost tax revenues.

I have letters from the Associated Builders & Contractors, American Farm Bureau Federation, and from the National Federation of Independent Business, which ask that I vote against the budget reconciliation package. To me, this is a sign. The business sector realizes how devastating this package will be on an economy which is already in dire straits.

Mr. President, I hope the people of this Nation are paying close attention to what Congress has in store for them. I hope they understand that their taxes will be increased, and their benefits will be reduced, and that every aspect of their lives will be affected by this budget agreement.

Mr. President, I further hope that they remember the achievements of Congress 2 weeks from now.

Mr. President, I ask unanimous consent that three letters from NFIB, American Farm Bureau, and the Associated Builder and Contractors be printed in the RECORD.

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

ASSOCIATED BUILDERS AND CONTRACTORS, INC.,
Washington, DC, October 25, 1990.

DEAR MEMBER OF CONGRESS: It appears the budget reconciliation conference committee has reached a tentative agreement which moves substantially from the original balanced approach of cutting spending and raising taxes to a heavier reliance on tax increases while ignoring the root of the problem. excessive federal spending.

The Associated Builders and Contractors supports deficit reduction as a top priority. However. we cannot accept an agreement which imposes new and higher taxes at a time when the economy is slipping into a recession—already impacting the construction industry. As an alternative. we urge you to support a continuing resolution for six months which includes a $20-$40 billion limited sequester or a resolution which continues spending at FY 1990 levels. both of which will yield effective savings until a realistic five-year budget proposal can be adopted.

ABC adamantly opposes, for deficit reduction purposes, an increase in the motor fuels excise tax. Any increase must be deposited in the Highway Trust Fund to preserve the integrity of the pay-as-you-go systems which has sustained the development of our nation's transportation system. These funds are included in the totals of the Unified Federal Budget and can be counted against deficit reduction.

Again, ABC urges you to vote against the budget reconciliation package and support a meaningful pro-growth solution.

Sincerely,

CHARLES E. HAWKINS III.
CAE Vice President, Government Affairs.

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
October 22, 1990.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: As we watch the tortured budget negotiating process. we are becomng increasingly disturbed that the final outcome will have a disproportionate and negative impact on small business and. therefore. the nation's economy. Information on the shape of the package. as attributed to the negotiators, suggests that it contains significant tax increases which will be shouldered by smaller firms. especially the self-employed, coupled with spending cuts that rely on specious assumptions.

Specifically, we are deeply concerned about proposals to raise income tax rates. double the gasoline tax. lift the cap on the HI portion of FICA. and limit deductions. In

1986, self-employed small business owners, three out of every four business taxpayers, gave up deductions such as the Investment Tax Credit and accelerated depreciation in return for the promise of lower rates. In the package now being proposed, those same business owners will bear the brunt of tax increases.

These actions could not come at a worse time. The latest Quarterly Economic Report by the NFIB Foundation suggest the nation has already slipped into recession. In September, our Index of Small Business Optimism fell sharply for the second consecutive month to the lowest level since the 1980 recession. Worse still, our data indicates that the 1990 recession will affect small businesses more than it will large corporations, at least initially. Therefore, we believe a package dominated by revenue increases, including higher rates and fees is the wrong approach to both deficit reduction and a stronger economy.

NFIB supported the summit compromise even though we would have preferred sequestration. We cannot support any further deterioration of the balance between spending cuts and tax increases and we urge you to reject any efforts to move toward greater reliance on tax increases, such as those now rumored to be part of the package.

I assure you, the more than 500,000 members of NFIB would welcome the triggering of sequestration rather than any further compromise and the resulting economic damage. You can be certain of our support for any action which will reverse this dangerous drift toward a tax solution to the budget deficit. Conversely, NFIB will oppose in Congress any agrement that moves in that direction.

Sincerely,

JOHN SLOAN, Jr.,
President and CEO.

AMERICAN FARM BUREAU FEDERATION,
Washington, DC, October 25, 1990.
Hon. STEVE SYMMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR SYMMS: Farm Bureau opposes the budget reconciliation bill. We ask you to vote against the conference report.

Taxpayers are upset with the inability of the Congress and the Administration to restrain federal spending. We are increasingly distressed by the willingness of our senators and representatives to raise taxes rather than curtail government expenditures. Higher taxes will only provide more money to be spent.

Agriculture is hit by a 25 percent reduction in farm program spending in the reconciliation bill. We take a double hit in agriculture when consideration is given to higher taxes on gasoline and on products which come from commodities like tobacco and grains. Aside from agriculture's specific concerns in the bill, tax increases, regardless of kind, are a drag on the economy and could trigger a recession. Agriculture has only recently recovered the ground it lost in the recession of the early 1980s. We are fearful of what another setback would mean for farmers, ranchers and rural America.

We ask you to reject tax increases. Vote against the conference report on reconciliation. Instead, freeze spending or approve a long-term continuing resolution at the FY 1990 level.

Sincerely,

DEAN R. KLECKNER,
President.

Mr. SYMMS. I yield back whatever time I have remaining.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I yield 3 minutes to the Senator from North Dakota [Mr. CONRAD].

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 3 minutes.

Mr. CONRAD. Mr. President, first, I want to thank the chairman of the Budget Committee for his extraordinary efforts throughout this year to arrive at a responsible and fair budget package. I have greatly admired his work as we have moved through this process. And so it is with a special sense of regret that I rise today to oppose the reconciliation package before us.

I think most of my colleagues know that for 3½ years I have headed a deficit reduction caucus that has met every 2 weeks to work on the very subject we are now addressing. There is nothing that I have felt more deeply about than the need for this country to get its fiscal house in order.

I have believed and stated frequently on this floor that the greatest threat to our security is our economic vulnerability. In fact, earlier this year, I presented to the Budget Committee a 5-year plan that reduced the deficit $559 billion over that 5-year period.

Mr. President, in my judgment, this plan is so unfair to the part of the country that I represent that I simply cannot support it. Farmers in this program are being cut 25 percent.

But that does not begin to tell the story, Mr. President, because the truth is that farm families in real terms will take a 40-percent reduction under this package, and that is before considering the income reduction they were to face for the next 5 years absent any cuts. The Congressional Budget Office told us farmers in this country could expect a 21-percent reduction in farm income over the next 5 years before any cuts are made. With these cuts, which are by far the largest of any function of Government, we will now see a new wave of farm foreclosures and farm failures across the heartland of America that will be unprecedented since the Great Depression.

Mr. President, that simply is unacceptable. It is especially difficult to accept when in the midst of all of this we will continue to spend nearly $100 billion a year to pay the military bills for Europe, when we have to borrow the money from them to do it; we will continue to spend nearly $50 billion a year paying the defense bills for Japan even though we have to borrow the money from them to do it.

Mr. President, it makes no sense to this Senator that we insist on paying others' bills when we cannot pay our own.

I am also disturbed that we ask taxpayers in this country for a tax increase when we are not being able to assure them that we are requiring other taxpayers to meet their obligations first.

The tax gap in this country is $100 billion, the difference between what is owed and what is being paid. We have done very little in this package to address that enormous injustice to the honest taxpayers who are paying what they legitimately owe.

So, Mr. President, it is with a real sense of regret that I rise today in opposition to this package but oppose it I must. It is simply too unfair to the area that I represent to win this Senator's vote.

No Senator wants to vote for a deficit reduction package more than I do. I have said many times on this floor that our greatest weakness as a nation is our economic vulnerability, and I believe that.

But I must hold this budget to two tests. First, is it fair? Second, is it honest? For this Senator, the answer to those questions is "No."

This budget is not fair. This budget still asks too much from the middle class, the elderly, the farmers, and rural America. This budget still asks the American taxpayer to pay the defense bills for Europe and Japan, when we can't pay our own.

This budget is not honest. It relies on phony economic assumptions and impossibly rosy scenarios. Does anyone really believe that oil prices will average $21 a barrel this year? Does anyone really believe interest rates will stand at 5.7 percent by 1992? Does anyone really believe that our economy will grow at a rate of 3.8 percent, a rate we haven't seen since 1983?

There are so many simple, fair, effective things we could have done to make this a better budget.

We could have told our friends in Japan that we're not going to spend $50 billion a year to pay for their defense, when they can well afford to pay their own bills.

We could have told our friends in Western Europe that we're not going to spend $100 billion a year to pay for their defense bills, and borrow the money from them to do it.

We could have put a tough fair share tax compliance program in place, to collect some of the tens of billions of dollars from those who refuse to pay what they legitimately owe.

We could have. But we didn't.

I cannot vote for this budget. The middle-class wage-earners of North Dakota did not send me here to raise their taxes, then spend $100 billion a year to pay for the defense of Western Europe. The people of my State did not send me here to raise their gas taxes, and then let tax cheats get off scot free. They did not send me here to ask the elderly to pay more for medical care, and then spend $50 billion a year to provide Japan's military defense. They did not send me here to cut agriculture spending by $15 billion, and then forgive nearly $7 billion of Egypt's military debt.

The people of North Dakota are willing to do their part. Like all good citi-

zens, they're willing to make sacrifices to get our fiscal house in order—but only if the budget is fair, and only if it will really work to solve our problems. Well, it's not fair, and it won't work.

It strikes hardest at States like my own State of North Dakota, rural States with high elderly populations, States that depend on agriculture for their economic strength, States where people have no alternative but to drive long distances and pay the higher gas tax. We'll have to pay for this package, and the price is too high.

Let's take a look at the agriculture cuts. This buget cuts agriculture by 25 percent in nominal dollars, and as much as 45 percent in real terms by 1995. That's far and away the largest spending cut, proportionally, of any major Government program. That's not fair.

And it comes at a time when farmers in my State are still recovering from 2 years of drought, at a time when wheat prices have plummeted, at a time when energy costs for farmers are going through the roof. And Congress gives them a budget that guarantees another wave of bankruptcies and foreclosures across the heartland.

It's not just farmers that will suffer from these budget cuts. The rural economy depends on the health of the family farm. Main street businesses in small towns will suffer, and many will fail. Implement dealers, send dealers, and fertilizer and farm chemcial businesses will be damaged. We will lose export markets. The food and fiber industry our Nation's biggest business, will inevitably feel the effects. More jobs and economic opportunity will move to the urban centers and overseas.

Let's take a look at the gas tax. Everyone will pay, but rural America will pay more—far more. North Dakota is 10th of all States in per capita gas consumption. My people have no choice. There's very little public transportation available to cross the wide stretches of North Dakota; people must drive.

Let's take a look at the tax increases. They still fall far too heavily on the middle class. Over the past 13 years, taxes on the middle class have climbed steadily, while their real incomes have increased only modestly. Meanwhile, the ultrarich, the top 1 percent of Americans, have seen their taxes drop by 23 percent, while their real incomes have risen a staggering 91 percent. That's not fair.

And the irony is that we're asking for tax increases before we make an honest effort to collect the taxes that are already due.

We know that the Internal Revenue Service has accounts receivable of at least $60 billion. That's money that we know is out there, that people have admitted they owe, and that simply has not been paid.

The Federal tax gap—the difference between what wealthy individuals and corporations owe and what they actually pay—stands at $100 billion today. The tax gap will rise to $120 billion by 1992 if nothing is done to improve tax compliance.

Earlier this year, I proposed a plan to make a modest investment in IRS resources, to collect nearly $64 billion over 5 years. This Nation needs a Fair Share Tax Program to collect the taxes that are legitimately owed. I don't think we should ask honest taxpayers to pony up another red cent until we make the deadbeats pay what they owe.

A Fair Share Program could bring in billions of dollars in revenue without a single tax increase. And yet Congress is proposing massive tax increases with this budget, with only a token effort to collect from those who fail to pay what they legitimately owe.

The irony is that we're asking for tax increases while we continue to pay the defense bills for Europe and Japan, even though we have to borrow the money from them to do it. The Warsaw Pact has collapsed. The Berlin Wall is a memory. And yet we continue to keep hundreds of thousands of troops in Europe, and pay $100 billion a year to pay for their defense. We keep 50,000 troops in Japan, and pay $50 billion a year for their defense. It doesn't make sense to ask our own people to sacrifice while we pay the defense bills for our allies—who are more than able to pay their own way.

You may say it's easy to sit back and pick this budget apart. It's easy to blow holes in it without offering any alternatives, without making the hard choices that must be made to bring our budget under control. But this is one Senator who has tried, not once, but many times, to offer a reasonable alternative.

This spring in the Budget Committee, I offered a plan that would have cut even more from the deficit—$559 billion over 5 years. And I did it with no phony assumptions, no smoke-and-mirrors accounting gimmicks. There was plenty of deficit reduction in the budget I offered—but it was fair, and it would have worked.

Just a few days ago, when the budget resolution came to the Senate floor, I offered an alternative. My plan would have pierced the income tax bubble, and imposed a surtax on those with taxable incomes over $1 million a year. My plan would have scaled back the gas tax, eased the cuts in Medicare, and restored about half of the cuts in agriculture—while still achieving the 5-year deficit reduction goals.

I have tried at every opportunity to make changes in the budget, to improve it and make it more fair. But like most of the Members of this body, even those of us who serve on the Budget Committee, I was locked out of the budget summit process.

This is essentially a budget that was put together by a handful of negotiators from the White House and Congress, behind closed doors. They are men of honor and good will, and I appreciate their hard work. But this is no way to put together a budget. The American people are disgusted by this process, and rightly so.

It's time to put an end to the era of budget summits. It's time to stop putting together our proposals based on threats of vetoes from the President.

It's time to debate a budget on the floor of the Senate, and vote our consciences in the open and under the steady gaze of the people who sent us here, as we were meant to do. If you don't want higher taxes for the rich, come to the floor of the Senate and say so. If you want to raise the gas tax, come to the floor of the Senate and say so. And if the President wants to veto what we do, so be it. Maybe then we'd be able to put together a budget the American people could support and respect.

I want very much to vote for a budget that will reduce the deficit, and put this Nation back on track to economic strength. This package will cause a great deal of pain for the people of my State, and win precious little for the people of the Nation. I cannot vote for this budget.

I yield the floor. I thank the Chair for this time.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, I yield 5 minutes on Senator DOMENICI's time to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming [Mr. WALLOP] is recognized for 5 minutes, the time charged to the Senator from New Mexico.

Mr. WALLOP. I thank the floor manager.

Mr. President, if Americans can take a look for just a minute, this is the package upon which we are about to vote, right here. It weighs what 8, 9 pounds? I do not know how many pages it is. But we are supposed to take comfort, because this three-page document summarizes it for us. We are supposed to be quite confident in what we know about what we are about to vote upon.

Mr. President, this is totally irresponsible of the Congress and it is typical of the way the Congress operates. It is virtually impossible for anybody to claim any certainty, including those who worked on it all those many thousands of hours, as to what is included in here. But we are supposed to take it.

By the way, on the desk down there is one copy, one copy available for all of the Republicans, of the statement of the bill managers. But we have reduced from 10 hours down to 2 hours the time in which we are able to debate this and discuss it, to try to determine what is in it.

This is a marvelous little thing that has been produced, which I would say is one copy of spin doctrine, called the half-a-trillion-dollar deficit reduction

program. If you read it, you are reading, those of you who were here before, shades of TEFRA.

Mr. President, one thing does come out of this—this is a tax program principally except that, as my friend from North Dakota noted, it cuts severely into agriculture. Those are real cuts. It cuts severely into defense, and those are real cuts. It cuts severely into veterans, and those are real cuts.

But then look at these items from the little summary.

The Committee on the Judiciary achieved its deficit reduction savings of $102 million over 5 years through an increase in user fees.

The Committee on Commerce, Science, and Transportation achieved deficit reduction savings of $1.2 billion through a combination of user fees.

The Committee on Banking adopted language that gives the Federal Deposit Insurance Corporation more flexibility to increase deposit insurance problems.

These are all new fees.

Also among the interesting items: the Committee on Labor and Human Resources achieved its deficit savings through increases in penalties.

The Committee on Environment and Public Works achieved its deficit reduction through a combination of Nuclear Regulatory Commission/Environmental Protection Agency user fees.

The Committee on Veterans' Affairs I mentioned.

The Committee on Governmental Affairs achieved its savings by requiring the Postal Service to make payments to the civil service retirement program, and by permanently increasing the maximum mortgage amount eligible for FHA insurance. So what they did was increasing their revenue by increasing the risk to America. And this, my friends, is deficit savings?

You will go through all of this, every last page of it, and you will not find any trimming of Government. One of the things you will find is that we have appropriations caps, new budget reform—wonderful, and I take my hat off. At least it is an attempt. But what does it do? It caps a rate of increases, and guarantees it at the same time, so there is no such thing as discipline applied anywhere.

I know when I was on the Energy Committee I asked why we did not take 15 percent off the identifiable overhead of the Department of Energy and of the Department of the Interior? Guess what? We cannot do that because that is the province of the Appropriations Committee.

But I thought, why would it not be a good thing for the American Government to cut down on some travel, to cut down on some conferences, to cut down on some advertising, to cut down on some of the frivolity which constitutes modern American delivery of Government which may be nice to have but not critical to us. But what do we get? We get new taxes and increases in fees and deductions from farmers and veterans and Americans' security.

I do not know how anybody else feels about that. That is all that is identifiable out of the package. Somewhere down the road we are going to have a look at a thing called a technical corrections bill, and therein will rein down the special favors on all of those people in both parties who were not at the table and who were probably not involved in this great mischievous thing.

The PRESIDING OFFICER. The Chair informs the Senator from Wyoming he has used his 5 minutes.

Mr. WALLOP. Mr. President, could I have 30 seconds?

Mr. DOMENICI. I yield 30 seconds to the Senator from Wyoming.

Mr. WALLOP. I thank Senator from New Mexico.

Mr. President, if anybody in America thinks anybody on this floor knows what is in here, then everybody in America deserves the tax increase they are getting.

I yield the floor.

The PRESIDING OFFICER. Under the rules of the Senate, it is inappropriate for visitors in the gallery to respond affirmatively or to the contrary to remarks made on the Senate floor. That will be enforced.

Who yields time?

Mr. DOMENICI. We were expecting Senator NICKLES from Oklahoma. Does the Senator from MIssissippi wish to speak?

Mr. LOTT. I do.

Mr. DOMENICI. I yield 3 minutes to the Senator from Mississippi.

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

Mr. LOTT. Mr. President, I thank the distinguished Senator from New Mexico for yielding me this brief time. I had actually thought about not having any further comments at this time; I had expressed myself so strongly earlier about what I saw coming with this so-called deficit reduction package. And that is certainly an oxymoron because I do not think we are going to see any real deficit reduction from this package.

I thought about maybe just getting up and saying the dastardly deed is done, let us get it over with. But there are some basic points that I have to make this afternoon to free my own conscience as I vote against this package.

First of all, the fundamental premise of this package is wrong. It has been wrong really for weeks or months. It goes back to probably May. But somewhere earlier this year, this turned into a tax increase package. That is what it really is. It is a tax increase package.

As a matter of fact, as we try to find out exactly what is included in terms of taxes, I think it is generally acknowledged now that it has $164.6 billion in tax increases plus an additional $18 billion in user fees, new or increased user fees, and $7 billion in premium increases, for a total of approximately $190 billion in tax increases.

The argument is going to be made, well, it hits mostly people in the higher income brackets. Let me assure one and all that it is going to hit everybody. When you look at the changes in this package, from gasoline taxes to new Coast Guard fees, it is going to hit the average working, struggling American very hard. Only in Washington would we call this a spending decrease because we are holding down the amount of increase. It makes no sense.

Let us just state it very simply. Over the 5-year period, Federal Government spending will go up significantly.

After looking at this massive package it is hard for me to tell exactly what the total tax increase will be. It is hard to tell exactly what the spending increases would be. But there are probably somewhere in the neighborhood of well in excess of $200 billion in spending increases across a myriad of areas.

Let me talk about some of the specifics in this package just a moment. I mentioned the Coast Guard user fees and you say "Well, we are talking about yachts." You are also talking about shrimp boats and fishing boats of people who work the seas for a living; now they are going to have a Coast Guard fee they have to pay—not of $25—but $35, $40. There is some escalating scale upward that is included in this package. That is a tax anyway to look at it. It does not really go into the Coast Guard. It goes into the General Treasury.

We have significant changes now in veterans affairs, including the current loan origination fee which will be increased.

There is a seven times increase in the mandatory minimum penalties for OSHA violations. Those people who have businesses, small businesses, trying to get their jobs done, are going to see OSHA increases. That again is a fee or a tax anyway you want to look at it.

There are going to be a whole number of areas like this where you are going to see the working, struggling people of this country hit by increased taxes or fees, and the spending increases will not go to those people who are out there earning the living, paying the taxes.

There is no growth incentive in this package. You almost stop hearing—except for the distinguished Senator from Florida a few minutes ago—about the fact we are not doing anything to encourage growth and development in the economy. We wound up doing nothing to significantly improve the capital gains area.

But there is some bit of good news here. At least we are coming to the end of this session. This is the bottom. I hope that next year we will begin to

turn up this thing and that we will seriously address the deficit in a way that will not be only tax increases.

I yield the remainder of my time.

Mr. DOMENICI. Mr. President, I made arrangements now for 5 minutes to the Senator from Oklahoma. Senator HUMPHREY wanted time. I yield 3 minutes following that. And if they have someone on their side, they have a right to be in between.

I yield in that order.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I compliment my friends and colleagues. I decided to vote against this package. I cast no aspersions on the people who tried to put it together. I know they did their best. I am not satisfied with the results.

Mr. President, looking at the results of this package as described by some of my colleagues previously, 40 percent of this package is a tax increase. They have tax increases. You also have fees, fee increases, taxes or fees or fines or penalties. That is 40 percent of the package. And 37 percent of the package is discretionary spending cuts. But basically that is spending cuts in defense, not in nondefense.

There is no nondefense spending cuts. Nondefense discretionary spending cuts are zero. Defense makes a significant contribution. There is very significant contribution on the tax side. Thirteen percent of the package is interest savings. That is purely an assumption. That is a wish, a hope. It is not necessarily a reality.

We put that in many of our budget packages in the past.

If you look at the total amount of money we spent on interest it has risen rather substantially.

This package also has a $950 billion debt increase, almost $1 trillion debt increase. That is an improvement over what it was originally at one time, at $1.9 trillion, enough to give us a blank check for 5 years.

As I understand, $950 billion probably will take us through May or June 1992.

We passed an amendment on the floor that would have reduced that down to basically a 1-year debt extension. We have significantly more than that now, but still $950 billion is only enough to take us through 1992. That much debt extension. That shows you even with this package the amount of debt is increasing, the amount of deficit is increasing, and increasing at a very alarming rate.

Mr. President, there are a lot of provisions in the package that have been pointed out, an enormously large package. We have not had time to review it extensively.

I have asked some questions and some of the things I found out about this package have alarmed this Senator. As the Senator from Mississippi mentioned, there are very significant increases in OSHA fines. Actually, it goes up to $1.1 billion over the next 5 years. OSHA is designed purposefully for the idea of creating a safer work environment for employees, not to go out and raise money, not to be a tax collector for the Federal Government.

I happen to be an employer. I came from the private sector. I am concerned about businesses now when they see the OSHA inspectors coming by, knowing that inspector is supposed to be raising a lot of money. So a lot of these fines are going to be very expensive.

Actually this bill allows those fines to go up by 7 times; not a 10-percent increase, not a 50-percent increase; a 700-percent increase in OSHA fines and penalties. I do not think that is a good change.

We had an amendment on the floor of the Senate which passed overwhelmingly to reduce that. But, unfortunately, when it came back from conference the higher fines and penalties were in there.

We also find out that this is a very heavy and punishing tax I am going to say on pension plan reversions, the tax that would go all the way up to 50 percent if an employer had a termination of a pension plan, had excess funds in it; now the Federal Government can take up to 50 percent of that reversion. That could have dramatic negative impacts on the private pension plan community of which there is over $1 trillion in assets.

That is terrible policy, terrible, terrible policy that we in the Senate will come to regret. We will find that the pension benefit guarantee corporation is going to have increased liabilities because employers in the future will not overfund their plans, they will underfund their plans. Some of those plans will go upside down and the liabilities will be on the taxpayers.

I have heard a lot of rhetoric: who is this going to tax; who is this going to hit? We are going to hit the upper income but with the HI increase alone. Medicaid, 1.45 percent; that tax now goes up. From $51,000 we are going to increase that up to $125,000, if a person is working to make enough to make $125,000. You are looking at a tax increase on the employee and on the employer of $1,000. That is $2,000 tax increase for that one person. That is a tax on wages.

I personally think that is a step in the wrong direction, as most of this package, the greater emphasis is on taxes, not on spending reduction, not on really controlling the growth of Federal spending.

Many of the appropriations bills we passed this year, the spending level increases exceed 10 percent. Mr. President, I think that is where Congress should have spent most of its time, in trying to contain the growth of spending, not trying to just raise more and more taxes.

I yield the floor.

Mr. HUMPHREY addressed the Chair.

The PRESIDING OFFICER (Mr. KERREY). The Senator from New Hampshire is recognized for 3 minutes.

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

The PRESIDING OFFICER. 19 minutes, 1 second.

Mr. HUMPHREY. Mr. President, I was watching on my television when our colleague from Wyoming, Senator WALLOP, made his outstanding speech just a few moments ago. I can fully understand why there was such an emotional outburst of applause from the galleries—in violation of the rules, to be sure, but one can certainly understand it—because I share the very same sentiments.

I will just bet that, among those 2 or 3 million Americans who may be tuned in just now on cable television, 90 percent were applauding Senator WALLOP's remarks, because they were right on target. We are told that we are about to tell the American people, I guess, that we have to raise taxes because spending cannot be cut further. We have cut spending as far as we can go.

Mr. President, any such suggestion is utter nonsense. Let me go to the bottom line. I will cite figures for the fiscal 1991 budget, the percentage of increase for 1991 over 1990 for the various appropriations bills.

The appropriations bill for Commerce, State, and Justice Departments increase 11 percent over last year. The Energy Department is getting a 9-percent increase. These are rounded off the nearest whole percentage. Foreign Operations, foreign aid, 6 percent. Interior, 6 percent. Labor and the Department of Health and Human Services, 14 percent increase. Appropriation for Congress, 7 percent increase. Appropriation for the Department of Agriculture, nearly on 8.6-percent increase. Appropriation for the Department of Transportation, 8 percent increase. Appropriation for the Treasury Department, 12 percent increase. Appropriation for the Departments of Veterans Affairs and Housing and Urban Development, 15 percent increase.

Where are the cuts, and who are we kidding, Mr. President I hope we are not deluding ourselves, and I am certain we are not deluding the American people.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, I yield myself 3 minutes.

Mr. President, I have listened with interest to some of the statements from my colleagues on the other side of the aisle, and I would say that it is awfully easy to stand up and pick apart this budget reconciliation package. It is very easy to find disagreement with it. Who in the world wants to raise revenues?

I do not want to see my taxes go up, Mr. President. I stand before you as a

government employee with two children in very expensive colleges. I do not want to see my taxes go up. But I do not want to continue to mortgage the future of those children either. It is high time we started living within our means in this country and in this Government

When this budget reconciliation package was on the floor, I heard no one on the other side of the aisle come forward and offer Medicare cuts. Where were they? They could have offered a measure to cut Medicare to the old folks right there. We would not have to raise revenues.

Where was the offer to cut agriculture? They could have cut the farmers. We would not have had to raise revenues. We did not hear a word about that. They could have cut the cost-of-living adjustments for the Federal employees, the retirees, the military retirees. Not a peep about that.

How about the student loan program? We did not hear a single word about cutting any of that program. How about environment and educaton? We have a President who says he wants to be the education President. He wants to be the environment President. Well, I want to see him be both of those. If he is going to be the education President and the environment President, he is going to have to have some resources to do that.

Veterans is another area we could cut. I just heard it referred to over here that payments for veterans are going up. That account is going up, yes, it is, because right now we are in the period where we have the post-World War II veterans bulge. Those men and women who defended this country in the Second World War are now approaching the age of 68, the time when their needs for medical care are the highest they will be in their entire lives.

Yes, we could cut those veterans. So why did we not hear an offer from the other side to cut these veterans programs? Not a word about that. We could have saved some of these revenue increases if those offers had been forthcoming.

So, Mr. President, for those who want to come on the floor now and make these speeches at the 11th hour and say, "We are taxing this group too much, these poor fishermen out there ought not to have to pay for these Coast Guard services that they receive. I say that their arguments simply come too late. They had their time to make those arguments and offer those amendments when they could be effective in changing the laws of this country.

I submit, Mr. President, that I have heard about all the rhetoric around here that I want to hear. It is time for those of us who want to get on with the business of making this Government run, to get on with that business. It is time. I think, to put aside some of these vacuous statements about we ought not to be doing this; we ought not to be doing that.

If people want to make cuts in this Federal budget, let them come forward and offer their cuts, and then go back home and defend them to their constituents. No, they do not want to offer the cuts.

The just want to go back home and complain and point the finger at those who accept the responsibility of raising revenues to run this Government, those who will accept the responsibility to raise the revenues so that Medicare can take care of the older citizens; those who will accept the responsibility to see that the veterans get what they deserve; those who defend the freedom of this country and fought for it; and those who accept the responsibility of providing the resources so that this President of their party can carry out his agenda of being the education President and the environment President.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. 21 minutes, 17 seconds.

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

Mr. SASSER. Yes.

Mr. MITCHELL. I was not present during the entire debate, but I heard someone else's discussion. I note that the Senator from Florida and the Senator from Mississippi are here. I heard phrases like "cut spending, reduce spending, deal with entitlements, we need spending reductions." I would if I missed anything. Did anyone propose cutting Medicare while I was out of the room?

Mr. SASSER. Mr. President, I say to the distinguished majority leader that I have heard no one propose cutting Medicare on this floor this morning, nor have I heard that proposal made during this entire session of the 101st Congress.

Mr. MITCHELL. Did anyone propose cutting Social Security while I was out of the Chamber?

Mr. SASSER. I say to the distinguished majority leader that no one proposed that, nor have they proposed it this session.

Mr. MITCHELL. Mr. President, I think that illustrates one of the problems here——

Mr. SIMPSON. If the majority leader will yield.

The PRESIDING OFFICER. Does the majority leader yield?

Mr. MITCHELL. Mr. President, let me just ask, does the Senator favor cutting Social Security?

Mr. SYMMS. I have favored, throughout my career, a modification of the cost-of-living adjustments. It is all on the record. I have favored raising the retirement age. I have offered the amendments here on the floor. I have offered raising the deductibility on Medicare. It is way out of balance from where it should be, and I think it has to be done in fairness with all the other programs.

But I think that is what the American people are asking us. Unfortunately, people like me are in the minority.

Mr. MITCHELL. I thank my colleague from Idaho, and I say that I have always admired his candor, and I admire it especially now. He is the first Senator that came out here on the Senate floor and said not only is he in favor of cutting spending, he is in favor of cutting Social Security, and he is in favor of cutting Medicare.

I think that his candor is——

Mr. SYMMS. That is different. I am talking about reformulating the formulas, raising the retirement age and raising the deductibility.

Mr. MITCHEll. Do I take it then that the Senator is now saying he does not favor cutting Social Security and does not favor cutting Medicare?

Mr. SYMMS. The majority leader is a master wordsmith.

Mr. MITCHELL. I thought for a moment I actually heard a Senator say that he favored cutting Social Security and favored cutting Medicare. But I gather even that has been modified or conditioned in some respects.

I think it really points up the problem, Mr. President, to which the Senator from Tennessee has alluded. We have heard a cascade of demands for cutting spending. We have heard a deluge of words for reducing entitlements. Every Member of this Senate knows that by far the largest entitlement programs, by far the largest spending programs, by far the fastest-growing spending programs are Social Security and Medicare.

And yet not one of those Senators who have spoken here today in opposition to this package and made such a demand for spending cuts has stood up and said let us cut Medicare, let us cut Social Security, because, of course, they are aware of the political consequences. I invite any Senator who has that view to stand up and say so.

To be specific, the two Senators on this Senate floor who have had the courage to spell out specific modifications in these programs that would deal with them effectively, and particularly Medicare, are Senators who worked hard on this package, and they know what is required. They know that restraint is required. They know that these programs cannot continue to grow at the current pace.

But the reality is that we have not heard from those who claim to want spending reduction, anyone who will stand up and say right now, loud, for all to hear, especially for their constituents to hear, "I favor cutting Social Security." "I favor cutting Medicare."

Mr. President, we are not going to hear that.

Mr. SYMMS. Mr. President, if the majority leader will yield one more time, I would like to say when we did the Social Security Reform Act, this Senator offered on the floor an amendment to raise the retirement

age 1 month every year starting in 1984. I offered an amendment to suspend COLA's with a modified reformulation. We had votes on it. It is in the RECORD. It is simply not true. We have advocated savings.

Mr. MITCHELL. I thank my colleague.

I merely make the point, Mr. President, that is the problem we confront. It is very easy to be abstract and use euphemisms and general phrases that do not touch a chord. But the reality is, of course, that we have here a package that is balanced and that is fair and is responsible, imperfect as it is. Desirable from the standpoint of each individual Senator? No.

But nothing better illustrates the difficulty of achieving meaningful deficit reduction than the words we heard in this Chamber this afternoon, the words from those who oppose this package but will not say that they want to cut the programs that are the largest and fastest growing and which create, in part, the difficulty which we confront.

Several Senators addressed the chair.

Mr. SASSER. Mr. President, I yield 5 minutes to the distinguished Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I rise to indicate my support for this bill. Although I recognize there are some good parts in it, there are some parts that are not so good, and some parts that I would have liked to have changed. But, I am a realist about the legislative process. You do not always get the bill that you want. It is a question of give and take.

I believe that the Democratic leadership has done a good job. Frankly, they would have done and could have done a better job if we did not have a President who consistently stood in the way and took certain positions that were very obdurate and, I believe, against the interest of the majority of the American people. The President was determined to protect the wealthiest people in the country and by reason of his adherence to that position, certain negotiations and concessions had to occur.

But I believe overall, in spite of that, this bill represents a major move in the right direction. It is not as progressive with respect to the tax rates as I think it should be, but I think it moves in that direction. I am unhappy about the fact that jewelry and fur purchases are only taxed if they cost in excess of $10,000. That amount ought to be lower, but so be it. I think that the energy tax credits should not be in the bill. I think that the tax on airplanes and yachts is unfavorable because the exemption is too high. But you have to swallow some of these special-interest provisions because, as I previously said, overall you have to take the bill as it is, not expect only what you want it to be.

I am frankly disappointed that defense spending is not to be cut more in the next 5 years. I believe the people of this country were expecting a peace dividend after all that transpired in Europe, and I think they feel a great sense of disappointment that we are not cutting Defense more significantly.

I know that Desert Shield is a totally separate issue, but the fact is we ought to be cutting back on some of the exotic weaponry and we are not doing enough of that.

Let me also look at the positives, now that I have mentioned the negatives. It will cut the budget deficit by $490 billion over 5 years under the economic assumptions that the President and the Office of Management and Budget has used. I think some of these assumptions are off base, but based upon their assumptions, it would be a $490 billion cut in the deficit over 5 years. It will burst the bubble in large part in spite of the President's opposition to progressive taxation.

It reduces the Medicare cuts as proposed by the administration by $93 billion. In other words, those who are on Medicare will be paying $93 billion less or suffer $95 billion less in cost than they would have if the administration position had been accepted. I am pleased about the fact that the workers of this country are going to be getting better protection, are going to be safer on their jobs and less lives lost because penalties had to be raised in order to balance the budget. The fact is they should have been raised a long time ago. They had not been raised in 20 years and this is one of the good things that came out of the negative, that by raising monetary penalties we are protecting the lives and bodies of workers on the job.

As I will explain further in my extended remarks, I must say, that I am glad personally, that after 8 years of trying, this bill does something about the fact that the employers of this country have ripped off over $22 billion from the pension funds of the workers of this country. Lots of the money was taken by the leveraged buyout artists who, immediately after they made the deal, terminated the pension fund, took out the excess funds for themselves. Under this bill, they will no longer be able to do that. They will have to share some of those funds with the Government and with their workers, depending upon the circumstances.

I believe that the Congress deserves a lot of credit for providing a reasonable way to ensure that the pensions of retired workers will be protected.

I conclude by saying that this is not a perfect bill. This is not the kind of bill that I would write. But the fact is it is a better bill than the bill that the administration wanted us to take in the first instance, and I doff my hat to the leadership on the Democratic side, who were able to bring about this result. I think it is in the country's best interests.

PENSIONS

I would like to explain the pension provisions included in the budget. For the past 8 years, I have tried to bring to the attention of the Congress and the Nation how workers and retirees are being harmed by companies raiding so—called excess assets from workers' pension plans.

At long last, the budget bill before us contains provisions to protect the millions of working men and women who are depending upon their pension plans to provide them with adequate income during their retirement years.

This issue first came to my attention in 1983 when the A&P Tea Co. was taken over by a German conglomerate. The purchaser terminated the A&P pension plan and attempted to take the money in the plan to pay for the entire cost of the takeover.

The A&P workers and retirees were outraged that their pension moneys could be taken away from them.

Those workers had given their lives to the company only to have their retirement security taken away from them.

They had sacrificed higher wages in order to set aside funds for retirement. But in one fell swoop their retirement money was gone. The Reagan administration at first ruled that this was an illegal practice.

But then in 1984, after some heavy arm—twisting from the business community, the administration changed its position and gave the green light to these sham pension plan terminations.

Soon thereafter, thousands of employers began terminating their pension plans and using the money for other corporate purposes.

Forty percent of the terminations were used to finance or prevent a merger or takeover.

Since 1983, over 2 million workers have lost over $22 billion from their pension plans.

Every study on this subject has shown that workers, retirees and taxpayers are harmed by these sham transactions.

Workers lost the security of having a defined benefit pension plan which is insured by the Federal Government. Following termination of a plan, the average worker loses half of his or her funded pension benefits.

Any replacement plan an employer establishes also is likely to provide lower future retirement benefits, and that new plan has no cushion of assets to protect against a downturn in the economy or a change in the employer's financial condition.

Retired employees are similarly hurt by a plan termination. Their pensions are sold off to an insurance company and thus become dependent on the financial status of the insurer. Retirees are unlikely ever again to receive cost-of-living adjustments in their benefits. Each year their income will be

eroded by inflation as they are forced to live on a frozen pension check.

Before reversions became legal in 1984, half of all retirees received cost-of-living adjustments from the pension plan's assets. Since 1984, less than one-third of retirees have received a single increase.

Taxpayers are also harmed by these transactions. All contributions made to a pension plan and the interest earned by the plan are tax-deferred. When an employer raids a pension plan, it benefits from the tax-free value of that money. Not only are we permitting employers to rob their workers, we are allowing them to bilk the taxpayers.

Although Congress imposed a 10-percent excise tax on employer reversions in 1986 and increased it to 15 percent in 1988, taxpayers still lose out. According to the General Accounting Office, the excise tax needs to be increased to 40 percent solely to recapture the Government's tax loss.

This raiding has gone on far too long. It is time that Congress stop giving employers incentives to terminate pension plans.

It is time Congress protect the retirement security of the American worker.

The budget bill before us does that. It provides a basic level of protection to workers and retirees and lessens the loss to the Government.

The bill changes the law so that if an employer decides to terminate its pension plan, then any excess assets must be allocated so that 20 percent goes to the Government, 25 percent is set aside for workers in a new pension plan, and the remaining 55 percent is recovered by the employer.

The employer may choose to reduce the workers' portion to 20 percent, if, but only if, the workers and retirees are provided immediate increases in their benefits.

But if the employer fails to set aside any money for the workers—either in a new pension plan or in immediate increased benefits—then the employer must pay a total excise tax of 50 percent not just 20 percent.

Although I am frank to say this bill is not all that I believe workers deserve, I believe it is a fair compromise.

I believe most employers will continue their existing pension plans if they cannot steal all the money. And if companies do decide to terminate, the workers and retirees will be fairly protected.

Before I discuss the other pension provisions in the bill, I must make one last comment. During negotiations over these provisions, every party but one wanted to work out a solution. Regrettably, the U.S. Department of Labor did not want to provide protections for American workers. I find it both sad and disgraceful that the agency established to protect workers was the only party that sought to limit their protection.

The bill also contains provisions to permit temporarily the transfer of certain pension plan assets to retiree health benefits.

Under current law, the money in ongoing pension plans may only be used for pension benefits. Employers may not transfer assets.

Rising health care costs have significantly increased employers' liability to workers and to retirees for health care benefits.

In addition, financial accounting regulations are requiring these liabilities to be reported on corporate balance sheets.

As a result, some companies want to start funding their obligation.

The deficit makes any new tax deductions for health benefits unrealistic.

So a handful of companies have proposed using pension assets to fund their retiree health obligations.

Although most Members of Congress are quite wary of permitting this, we have reluctantly agreed to do so for a limited period of time.

Under the provisions included in the budget, employers may transfer pension assets provided certain conditions are met.

First, the employer may transfer assets only if agreed to under collective bargaining, or if not restricted by other laws, such as Government contractor restrictions.

Second, the employer may transfer assets only if its pension plan is fully funded and a cushion of the money remains in the plan.

Third, all workers must become vested in their pension benefits to protect their pension rights.

And fourth, the employer may not reduce its health care expenditures for a 5 year period subsequent to any transfer.

This provision expires at the end of 5 years as employers' pension plans are unlikely to be able to absorb any further transfers.

I cannot express how uneasy I am over this provision.

I am concerned that workers' pension plans will be too severely drained, and as a result, workers and retirees will be less likely to see benefit improvements.

But I am willing to give this change a chance.

I intend to monitor closely every company seeking a transfer, and if I believe abuse is occurring, I will seek to have this provision eliminated.

Overall, the pension provisions in this bill are a triumph for the American worker. For 8 years, workers have been victims to corporate raiders who cared not at all about the workers' hard-earned retirement funds.

Starting today, the gravy train for employers is over. Congress is serving notice that pension plans are meant to be used to provide pension benefits to workers and retirees. Employee benefits represent a trust between workers and employers. Congress will not allow that trust to be broken. American workers deserve retirement security.

I will continue to fight to ensure that the rights of working men and women are fairly protected.

Before I end, I want to thank the many Members of Congress, their staffs, and outside organizations, who supported me in my long lonely fight. First, I want to thank our majority leader, Senator MITCHELL and his aide Robert Bozen, for their tireless efforts in this cause. I also want to thank Senator BENTSEN and his aide Randolf Hardock, for agreeing to reasonable protections for workers. I want to thank Senator KENNEDY and his staff, Mary Jeka and Sara Fox, for their continued support in this important effort. I want to thank Senator KASSEBAUM and her aide, Dan Bolen, for their willingness to speak out on the need to protect workers and retirees. As for my House counterparts, I am indebted to Congressmen CLAY, HAWKINS, and ROYBAL, for sharing this fight with me. And to their aides, Phyllis Borzi, Fred Feinstein, Karen Vagley, and former staffer, Roger Thomas. I want to thank the many groups that fought for meaningful legislation in this area: the AFL-CIO and all of its affiliated unions, the AARP, the pension rights center, and all of the other senior citizen organizations. We should all be grateful for the efforts of their fine Staff, Ernie Dubester, Meredith Miller, David Certner, July Schub, Marty Corey, Karen Ferguson and Karen Friedman.

And last, but surely not least, I must say a few words of thanks to my own staff. My former aide David Starr, spent a number of years working to secure protection against the scrouge of reversions. My current pension counsel, Michele Varnhagen, has done a tremendous job of pushing this issue, developing creative new approaches, and tirelessly toiling on behalf of America's workers and retirees. I want to recognize her publicly and commend her efforts. Jim Brudney, Al Cacozza, Kelly Murphy, and Pat Preston of the Labor Subcommittee staff also have been important to this success.

There are still many battles ahead of us to improve the retirement and other employee benefits of American workers and their families. I will be here to fight those battles.

OSHA CIVIL PENALTY PROVISIONS IN BUDGET RECONCILIATION

Mr. PELL. I would like to clarify a few points with the chairman of the Labor Subcommittee regarding the agreement to include increases in civil penalties for violations of the Occupational Safety and Health [OSH] Act as part of the budget reconciliation package. As I understand the provision, the conferees agreed to two changes in this area: First, increase all existing maximum allowable civil penalty levels in the OSH Act by seven times; and second, institute a $5,000 manda-

tory minimum assessed penalty solely for willful violations of the OSH Act. Is my understanding correct?

Mr. METZENBAUM. The Senator is correct. Moreover, according to the Congressional Budget Office, these changes in OSH Act civil penalties will produce nearly $900 million in new Federal revenues over the next 5 years. All those additional revenues will be deposited in the U.S. Treasury for purposes of Federal deficit reduction.

Mr. PELL. I thank the Senator. In addition to the impact on the Federal budget deficit, how will the increase in civil penalties affect the safety and health of America's workers?

Mr. METZENBAUM. As my good friend from Rhode Island, who has been one of the true leaders in protecting the safety and health of American workers, well knows, the conferees regarded the impact on health and safety as one of the significant motivating factors for adopting these specific penalty changes. Civil penalties under the OSH Act have never been adjusted in the 20-year history of the act. But returning OSH Act civil penalties to their original 1970-level will not be enough to deter violations and ensure adequate enforcement by the Occupational Safety and Health Administration [OSHA].

In recent years, the Senate has conducted oversight hearings on OSHA civil and criminal enforcement efforts. One major conclusion from those hearings is that OSHA has not lived up to its stated purpose: To "assure so far as possible every working man and woman in the Nation safe and healthful working conditions." Therefore, the conferees adopted the changes in civil penalties both to reduce the Federal budget deficit but even more importantly, to improve worker safety and health protection.

Mr. PELL. I have one additional question. Section 18 of the OSH Act authorizes any State, subject to a plan approved by the Secretary of Labor, to assume the Federal responsibility for development and enforcement of occupational safety and health standards in that State. As I understand it, 23 States currently operate under such federally approved plans. How will the changes in OSH Act civil penalties included in the reconciliation package affect those States operating under federally approved plans?

Mr. METZENBAUM. The Senator has raised an important question. Those States operating under a federally approved plan will be required to bring their plans into compliance with these new penalties. Let me explain. The penalty changes in reconciliation are amendments to section 17 of the OSH Act. There are no changes in section 18 of the OSH Act. Therefore, it is clear that the requirement in section 18 that the State plan be at least as effective as the Federal system with regard to safety and health standards and the enforcement of such standards remains unchanged.

Thus, a State operating under a federally approved plan will have to reexamine its current plan to ensure that its enforcement mechanisms are at least as effective as the OSH Act, as amended by this reconciliation package. In addition, the Secretary of Labor, as part of her responsibility to make a continuing evaluation of State plans, may have to take additional action to ensure substantial compliance with the OSH Act.

Mr. PELL. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, I yield 5 minutes to the distinguished Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recongized.

Mr. GORE. Mr. President, thank you very much, and I thank my distinguished colleague and friend from Tennessee, Senator SASSER, for yielding me this time.

Mr. President, it was only a few days ago that I stood here on the Senate floor with my colleague, Senator MIKULSKI, from Maryland and others arguing that we could do better for our constituents and for our country; that it just did not makie sense to ask seniors, Medicare patients, and others to pay a lot more so that those who could most afford it could pay less, thanks to new unjustified tax breaks.

Today there is proof that we were right. This package is better and the American people know it. All the working families, all the seniors, all who have no more to give and who have been holding on to their pocketbooks can feel a little better about this package today.

We are not going to let the Government pick middle-income Americans' pockets with this budget. We are not asking those who can least afford it to find money they do not have to pay someone else's bills. We are asking those who can most afford it to pay more of their fair share. No more free rides. In this package, there are no free rides.

Mr. President, I want to commend our colleagues in the leadership of this body for their commitment to a difficult task and for their tireless efforts to reach an agreement. I know in particular that I am only one Tennessean among many who are proud, and rightfully so, of my colleague and friend, Senator JIM SASSER, chairman of the Senate Budget Committee. We are all in his debt and grateful for his service, skill, and leadership during a very long and difficult year.

Today's action proves that all of the work, all of the difficulty, is paying off in the sense that we finally have a better result with more fairness and more credibility than we would have had without the dedication and hard work of the senior Senator from Tennessee, Senator SASSER.

I wish to commend his Republican counterpart on the committee, Senator DOMENICI. As I have already done, I would like to single out the two leaders, Senator MITCHELL and Senator DOLE, for their outstanding leadership during this process and the two chairmen of the so-called money committees in the Senate, Senator BYRD, the chairman of the Senate Appropriations Committee, and Senator BENTSEN, the chairman of the Finance Committee, and their Republican counterparts.

Mr. President, this process has not always been pretty to watch. We have all heard from our constituents, and we have all been faced with the same questions, and encountered the same anger. Many of us have been asking ourselves those questions and controlling the same anger.

How can you ask Medicare patients to pay a lot more when you tell those who can most afford it that they can pay a lot less? It is a question that has made many of my constituents in Tennessee angry and has aroused other questions. Tennessee common sense says you just cannot do it and we are not doing it in this final result. The fact is plain old American common sense says you just cannot do it. And this budget makes room for some of that old-fashioned common sense.

Reducing the deficit is our first priority. But, as this agreement shows, we do not have to shake down seniors or middle-income families to do it.

Like many of my colleagues, I have to say there are changes, including some spending cuts, I would have liked to have seen in this budget that are not there, and there are cuts and tax increases that are included that I would rather have not seen as a part of it. In fact, there are 100 different budgets that would have been written if each one of us could have had his or her way. But overall, this is a package that is greatly improved compared to the earlier proposals. In my view it deserves strong support.

The fact is we must reach an agreement, because in the final analysis, this is not about politics or partisan gain. It is about people. It is about all the people that work hard to make ends meet, to feed their families, to educate their children, to makje their dreams—and their children's dreams—real. This 's about the people who are counting on us to stand up and fight for what is important to them and to their families. This is about passing a budget that will strengthen the American economy they depend on to support their families and their future.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I yield 5 minutes to Senator ROTH.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I once heard that the definition of the Eiffel Tower is the Empire State Building after taxes. I am afraid that if the budget package Congress is about to vote on becomes law, this definition will take on a whole new meaning—not only will Congress have further stripped financial wherewithal from the American taxpayer, but it will be one more step toward taking a strong economy and turning it into a shell.

That is why I intend to vote against it.

This final package meets virtually none of the criteria America needs to meet its future in an increasingly competitive world. It meets none of the criteria our homes, farms, and businesses need to secure their futures. I know that some of my well-intentioned colleagues are trying to sell this as a bipartisan success that provides $490 billion of deficit reduction over the next 5 years. But let us look beneath the rhetoric. What we really have is a package that includes $200 billion in new revenue made up of tax increases, user fees, and increased Medicare premiums. The rest of this package is $70 billion in domestic spending reductions, $180 billion is defense savings and $64 billion in savings on interest on the national debt. This does not include the increased spending, tax breaks, and income redistribution also continued in this package—all of which detract from deficit reduction.

A closer look at this package—especially its tax component—illustrates the real burden it will have on the American public and our economy. Proponents will argue that the net tax figure is $137 billion, but in reality total tax increases will hit $164 billion. The $27 billion difference are tax breaks and income redistribution. For example, by 1994, lower income families will be receiving three times the tax credits they receive now—increasing their total credits from $1,000 to almost $3,000 over the next 5 years—while middle- and higher-income families will receive a 2- to 6-percent tax increase. Three examples of how this package increase taxation include:

The increase in the health insurance wage base, a 3-percent tax hike for families earning over $50,000. To give you an idea of who this will affect, consider that 41,000 hourly union workers at GM will pay this increase; and

Another increase includes the phase-out of personal exemptions, which I believe is patently antifamily.

And another is the phaseout of itemized deductions which attracks deductions for home mortgages, charitable contributions and State and local taxes. While now this tax increase affects only those over $100,000,

I'm afraid it's only a matter of time before Congress is back reducing the threshold to include the middle-class.

These are only three of 26 different tax increases—many of which will hit the middle-class right on the chin.

And the fact is, it is the increases in this proposal that are for certain. They represent the most tangible part of this plan. The same can't be said about the reductions.

Only $70 billion of this package are real reductions—reductions in Medicare, Federal employee retirement, veterans programs, student loans and agriculture.

In fact, new revenue increases outpace entitlement savings 3 to 1. To give the voter a perspective of Congress's ture intentions concerning spending, the 13 appropriation bills Congress has voted for 1991 total $36 billion more than it spent in 1990—and this does not include all entitlements, interest on the national debt, and the savings and loan bailout. The fact is, that under this proposal, total Government spending will increase $100 billion more in 1991 than it was in 1990.

In fact, even during this time of austerity, this legislation builds in increasing spending for discretionary programs.

If there were guarantees that these increases were necessary, it would be one thing. Unfortunately, these guarantees do not exist, and in fact we are already hearing of discretionary funds to be used for renovating the home of Lawrence Welk, studying the potential for a national bicycle policy, as well as looking for a place to build a new congressional staff gym. In other words, Congress has not only passed the buck—but spent it.

Concerning the cuts in defense, the $180 billion of this package counted as defense savings may very well be real, but is not the result of these budget negotiations.

It is not the result of hard choices made by the Congress.

In fact, it represents a windfall due to the Communist melt-down. And like a windfall, this $180 billion is fortunate at best and illusory at worst. Operation Desert Shield is outside any spending restrictions—totally exempt from what little enforcement mechanisms exist in the proposal. Consequently, we do not know how long these defense savings will last, or how long we can depend on them.

The final component of this package that I would like to address is the $65 billion in reduced interest payments on the national debt. Mr. President, this figure is based on extremely optimistic interest rate assumptions and has very little to do with the hard choice Congress must make if it is going to get the deficit under control.

Some of my colleagues will try to convince the voters that this time deficit reduction is for real—that this time enforcement is for real. Well, let me be the first to say that if the Gramm-Rudman enforcement procedures can be compared to Dirty Harry, what this package proposes are the keystone cops. Even the proponents of this proposal admit that Gramm-Rudman is only advisory during the first 3 years—with no bite to limit spending. The so-called caps intended to monitor spending throughout the year are so flexible that spending will continue to increase during the next 5 years. For example, these caps—or ceilings—allow for emergency spending increases as well as inflationary adjustments.

In addition to their rubber-like flexibility, these caps will have no influence on IRS finding increases, credit re-estimates, Egyptian debt forgiveness, additional IMF contributions, emergency supplementals and Operation Desert Shield. If this logic were compared to a diet, it would not only allow for occasional cheating, but offer weekend binges in a pastry shop. No way to lose weight; no way to bring down the deficit.

Proponents argue that this conference report represents a 5-year package—that this will settle the deficit problem for the next 5 years. I can almost guarantee otherwise * * * We will be here going over the same arguments next year, the year after, and the year after that. We will be here because one of the fundamental problems of this package is that it does not address the issue of spending. This spending will drive increased taxes. And just as it has lead us to this point, spending will drive the deficit further and further into the red.

Mr. President, for these reasons I cannot support this package. It is the wrong package at the wrong time. It fails the American people. It will fail their economic needs. It tries to lay the blame of the deficit and budget debacle at their feet. It tries to make them believe that the problem is not that Congress is spending too much—or that Government is wasting money—but that they are not being taxed enough. Well, I do not believe it. And neither do they. Treasury revenue has doubled in 10 years—due to the economic boom provided by the tax cuts of 1981. Even that windfall was not enough for the big-spenders, and they drove the deficit to its all-time high.

On September 27, I submitted into the RECORD a $400 billion plan which reduced agriculture, Medicare, domestic discretionary spending, defense, and general government. It did not rely on large tax increases.

As far as I am concerned, Mr. President, this is a dark day for the Republic.

After this tax agreement, Americans have as much reason and right to rebel as they had in 1774. In fact, as I look around this chamber, the only thing missing is a portrait of King George.

The PRESIDING OFFICER. Who yields time?

Mr. RUDMAN. Mr. President, I rise to support this proposal. I want to make a few comments.

Very briefly, just let me commend all those on both sides of the aisle who have worked so hard in a very difficult situation. No one has really talked tonight—actually, it is daytime; I said tonight because lately we have been late into the night—this afternoon, about the fact that we not only have a divided Government in this country but we also have divided parties; maybe more so on my side than the other, but we certainly do. That has made this even more difficult.

If this were a parliamentary system, Mr. President, this Government would have fallen 3 weeks ago. I am not suggesting we change our system. But with the divided Government we have, I think it is remarkable that we have this product.

I want to rebut a couple of things that were said recently.

First, as far as Gramm-Rudman-Hollings is concerned, it is stronger, not weaker, with the adoption of this reconciliation package for the simple reason we now have so-called minisequesters. That was an idea that Senator DOMENICI and Senator GRAMM and I have talked about for a long time and it is very effective. We will see how effective it will be next year.

Second, the chairman of the Appropriations Committee, the President pro tempore, cited some figures the other day which the American people ought to know about. Let me just run through them once more because I quote them myself.

This year's Federal budget is 24 percent defense, 17 percent nondefense discretionary, 49 percent entitlements, and 14 percent interest. In other words, interest at 14 percent is only 3 percent less than what most of the American people call Government.

Second, let me point out that discretionary spending has gone from 25 percent of the Federal budget in 1981 down to 17 percent this year, hardly indicating profligate spending by anyone.

I happen to be the ranking member of the State, Justice, Commerce Subcommittee and on the floor a few moments ago someone said that our appropriation went up 14 percent. If one discounts for nonrecurring prison costs, funding for the Department of Justice was increased over 18 percent and for the Judiciary, around 15 percent. That sounds like a lot of money. It is. I will tell my colleagues where it went. It went to fight the drug problem we talk about on the floor and the American people talk about, and to investigate savings and loan fraud. It went to the FBI, Drug Enforcement Administration, Justice Department and Federal judiciary, mainly for these purposes.

We can fight a war on drugs with our mouths or we can fight it with money. We chose money. I think the American people back that all the way.

Finally, I want to say one thing to my friends on the Budget Committee, my chairman, and the ranking member. There is one thing we have not done here and we are going to have to do it. The Senator from Tennessee a few moments ago talked about seniors. I listened to him very carefully and I agree with him. You cannot put all seniors in the same category any more than you can put all of any group in the same category. We are going to have to get serious in the next 2 years about means testing entitlement programs.

Yes, Mr. President, I am talking about means testing Social Security more than we are now. We are now means testing at $35,000; we start taxing it. We are going to to have to start means testing Medicare or I will tell my colleagues with certainty we will be back in the same mess 3 years from today. The entitlement programs have grown from around 32 percent of the Federal Government to 49 percent. Left unchecked, they may grow to 70 percent by 1996.

There is nothing that makes sense about a Medicare program that treats all seniors alike. Those with upper incomes should pay for more of their own health care. Those with low amounts of income should pay very little.

I cannot understand why there is such sensitivity to that kind of an approach. I happen to believe that the American people would agree that a carefully means tested program in Social Security and Medicare and other programs will be fair and in the interest of the American people. Otherwise, Mr. President, the young people of this country, ages 21 to 55, will be paying all of the taxes and have a lower standard of living.

I serve notice on my colleagues I will have a comprehensive means testing program for entitlements to introduce to the Senate next year in the normal fashion. I will introduce it. It will go to the Finance Committee. I hope we will debate it, and I hope we will vote on it. If we can do that, we need not be back here again 2 years from now facing a budget crisis.

Mr. GORE. Will the Senator from New Hampshire yield briefly?

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

Who yields time?

Mr. SASSER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes and 16 seconds.

Mr. SASSER. Mr. President, I yield 5 minutes to the distinguished President pro tempore of the Senate, and would ask unanimous consent that he be allowed an additional 10 minutes.

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

The President pro tempore is recognized.

Mr. BYRD. Mr. President, if we go to war in the Middle East, the deficit will grow. If we have a disaster in our banking system, the deficit will grow. If our economy falters, the deficit will grow. But I believe that those who have worked for so many long months on both sides of the Hill, both sides of the aisle, and including the White House representatives, have fashioned an agreement which aims to lock in set amounts of budget savings each year for the next 5 years.

It is a tough package. It has tough enforcement provisions. Many will not like its tax increases. But I believe that the taxes have been levied fairly, and I believe it is time to face the fact that we will never get these budget deficits down without increased revenues.

I congratulate President Bush for having the courage to say that taxes are needed. Only a fool or a knave would adhere to a campaign pledge while his country foundered. President Bush is neither, and he has done the right thing.

We have heard talk about Government spending and the need to cut it. Government spending has been cut as a result of this agreement. Defense spending is Government spending. Entitlement spending is Government spending. Foreign aid spending is Government spending.

Defense has been cut by at least $184 billion over 5 years and a significant step has been taken to curb the growth in entitlements. So do not let it be said that this is an agreement that does not result in Government spending cuts.

Let it also be said—and let it be heard by those who see, through the electronic eye, that defense spending is also Government spending. Some Senators talk about Government spending as though it only is that spending which improves the infrastructure of this country—the physical infrastructure, and the human infrastructure. But the cuts have not been made with a meat ax.

Programs that educate and train our people and which can help to rebuild our crumbling infrastructure have been preserved. It is folly to cut the deficit in a way that lacerates this Nation's ability to compete and to grow within a global economy. It is wrong to sacrifice our children's future on the alter of political expediency.

This package will not be popular. It asks for sacrifice, and sacrifice has

fallen into disfavor. But there are times when sacrifices must be made for the public good.

As a country, we need to think hard about the direction in which we are headed and about our obligations to our children and to our grandchildren. They seem to be the voiceless ones in this debate. We cannot leave them with this mountain of debt, nor can we leave them with a bleak future and a diminished standard of living.

The world is changing. No more does America dominate. The question has now become: Can America continue to compete? And, if we cannot compete, then we certainly will not lead. If we do not get our economic house in order, we will do neither.

Mr. President, as one of the summiteers, I cannot assure that the objective of achieving a deficit reduction of $490 billion in 5 years will be fulfilled. But the package is real and it is painful. As I have already indicated, there are uncertainties regarding the Middle East and a recession and other things which can intervene to make this effort less a success than it might otherwise have been. The debt will still be there at the end of the 5 years and it will still be rising, because, until a balanced budget is achieved, the deficits will continue.

Until we are able to control defense spending and until we are able to control entitlement spending, balancing the Federal budget will be elusive. Entitlement spending is fast growing, and it threatens to crowd out other important needs.

The computer has the easy work, Mr. President, when it comes to entitlement spending, and just as sure as the sparks fly upward, there is nowhere for entitlement and other mandatory spending to go but up. To reverse this trend will require great courage on the part of Senators and other representatives of the people. The politician will be competing against the computer, with the politician having to make the hard decisions and take the tough stands while the computer does the easy work of adding to the burgeoning costs.

The national debt has become a serious threat to the Nation's future. Some people believe that, because the deficit constitutes a smaller percentage of the gross national product today than some years ago, deficits are no longer a threat.

I call attention, for example, to the fact that in 1976, the deficit constituted 4.3 percent of the GNP. In 1989, according to the Congressional Budget Office, the deficit constituted only 2.9 percent of the GNP. I say "only" because, in comparison with that the deficit was in 1976, it is lower with respect to a total percentage of the GNP.

But the real indicator, Mr. President, to which we should pay close attention is the debt burden, the rising cost of servicing the debt—$189 billion in this fiscal year—that part of the budget which is growing faster than any other part.

The growth of entitlements adds to the debt burden, the difference being, with respect to entitlements, that the money spent for entitlements flows back into the economy, for the most part, while the money that goes to pay the interest on the debt does not buy one textbook for our schools, does not immunize one child against measles, does not repair one inch of our deteriorating highways and bridges, and does not buy one bullet for one gun for one serviceman. Much of the interest payments goes into the pockets of foreign investors.

The basic point to be remembered here is that the legislation before us is an important step forward toward the goal of reducing the annual deficits and achieving a balanced budget. This is not a perfect bill, as no bill is perfect. The fact that this bill is very controversial means it is painful. It means that it is not made up of blue smoke and mirrors. It does make cuts in entitlements; it does cut defense; it does raise taxes; and it does attack the budget deficit.

It is easy to find fault with the bill. It is always easy to nitpick. It is easy to vote against the bill. It will be easy to write press releases stating "I voted against cutting entitlements," "I voted against raising taxes." But what those same press releases will not say is, "Rather than do something that required a little courage and a little spine to pay for the feast on which we have been gorging ourselves for 10 years, I would prefer to shift that burden to our children and grandchildren and let them pay for the feast, plus the tip."

"Besides"—in that same press release—"Besides, by then, I will have retired and left town."

Of course, the press release can also say, "I had a better plan," without revealing that it would not have gotten a shirttail full of votes.

Mr. President, we in this Chamber are charged with the duty of leadership. We asked for it. We expended a lot of effort to get it. And we are expected by the American people to demonstrate it.

Leadership is not always easy, especially when the going gets hard. It is not always popular. But in the end, it is the character and the quality of leadership that will make or break a nation.

So, I hope for the passage of this tough attempt at deficit reduction. I also hope that we here who claim to be the leader of the Nation will begin to tell our people back home the truth about the budget, the truth about what is increasing the national debt.

True leaders do not say only what the polls tell us is popular. When it comes to a matter that is so grave and so vital as the one before us, we ought to tell the people the truth and not just what the polls may say is popular.

The widely reported disgust with politicians in the electorate, I believe is largely due to the fact that the American people are sick to death of leaders who pander to the special interests in order to ensure their next election.

So I support this imperfect package Mr. President. It is not the ultimate answer. But with solemn dedication let us vote for his bill and start the ultimate answer on its way. That is our mission.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from New Mexico.

Mr. EXON addressed the Chair.

Mr. DOMENICI. Mr. President, I understand the Senator from Nebraska needed 30 seconds. I yield for that and I ask unanimous consent that it come in addition to the time remaining.

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

The Senator from Nebraska.

Mr. EXON. Mr. President, the action about to be taken by the Senate in a very few moments has caused a great deal of concern, consideration and debate.

Mr. President, I rise to oppose the budget reconciliation bill before the Senate. I have spoken extensively on this subject and I will keep my remarks brief.

The economy is on the brink of recession and the American people are appropriately impatient with the quick fixes and political salves of the past. The new budget package, even with its modifications, is still full of false promises, blank checks, optimistic assumptions and tax provisions which would seriously hurt the Nation and hurt my home State of Nebraska. The reconciliation bill is nothing more than a dressed up version of the President's budget summit agreement.

The combination of large cuts in farm programs, the 5-cent increase in gas taxes, and the new tax rules for insurance companies will seriously hurt the State of Nebraska.

The farm cuts come at a terrible time for rural America and for the United States presently engaged in a most difficult trade negotiation. The deep farm cuts represent unilateral disarmament. If the United States employed the same strategy in military negotiations as it employs in farm trade negotiations, we would all be speaking Russian today. To destroy the American farm program and not even get one concession in return from our trading partners is total folly.

Mr. President, the tax provisions of this package have been well discussed. What is not well understood is the so-called budget reform package in this reconciliation bill. Like the Gramm-Rudman law, this package is wrapped around a proposal to increase the statutory debt ceiling. Added to the cur-

rent $3.2 trillion debt, the new debt ceiling will equal $5 trillion. This level of fiscal irresponsibility alone justifies the defeat of this package. In the name of reform, a choke point for spending is erased. Other so-called reform measures are designed to delay any renegotiation on this package until after the 1992 Presidential elections. How convenient.

There is a better course. The reconciliation bill, the son of the summit, should be voted down and an alternative should be adopted which freezes discretionary spending accounts, both domestic and foreign aid, rolls back congressional and high ranking executive branch pay raises, reduces non-Desert Shield Defense spending to the level recommended by the Senate Budget Committee, freezes through attrition the size of the Government work force and grants retirees a full cost-of-living adjustment.

In addition, the debt ceiling should be extended for only 1 year at a time. The budget reform which should be added would require a three-fifths vote for any increase in borrowing authority which exceeds the level consistent with the promise of the budget agreement. The Senate Budget Committee has already given its approval to this very measure which I introduced known as the Debt Ceiling Reform Act.

The President should also be required to update this budget on a biannual basis to take into account the changes in the economy and the effectiveness of the previous year's promises. Such an assessment would provide a midcourse correction to prevent an untimely expiration of the debt ceiling and the false promise of another quick fix.

An additional provision should be added that would require the President and the Congress to define the deficit as the year to year increase in the national debt.

If such an honest budget provision were in force, the Congress and the President would not be telling the American people that they are presenting a plan to reduce the deficit by $490 billion over 5 years as they are attempting to do today, but they would have to tell the American people that they will be borrowing an additional $1.9 trillion over 5 years, if and only if, the rosy economics of the present package hold together. If not, borrowing would increase borrowing even more.

Mr. President, I will vote to oppose the reconciliation package and encourage my colleagues to do likewise. Once defeated, a true freeze budget could then be considered and real budget reform can be pursued.

Thank you, Mr. President.

Mr. DOMENICI. Mr. President, I note that we will be exactly equal on both sides in terms of time if the following occurs: I ask unanimous consent that Senator STEVENS have 3 minutes; Senator SIMPSON 3 minutes; Senator DOMENICI 4 minutes; Senator DOLE 7 minutes, and that will put both sides having exactly the same amount of time on this measure.

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

Mr. DOMENICI. And in that order, Mr. President.

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

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

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. HEINZ. Mr. President, this is the first major revision of the Clean Air Act in 13 years. It is overdue. Our Nation has not achieved our clean air goals. Our current regulatory system is failing to solve the problems we identified more than a decade ago. Moreover, emerging science has made us aware of new dangers: global warming, the disappearance of the protective ozone shield, and the long-term effect of toxic air emissions on public health.

The need for urgent action is evident. This legislation meets that need.

Today, for example, over 100 million Americans are exposed to urban smog because they live in areas that fail to meet ozone standards. Under current law for ozone nonattainment, communities are merely required to meet a certain goal by a certain time. There is no mechanism to ensure steady progress toward the goal. There is no strategy to separately address the pollution generating components affecting the quality of the air. There are no realistic penalties for communities that fail to meet the goal. And, consequently, far too many communities have not met the ozone standard.

This Clean Air Act of 1990 will provide the strategy and mechanisms missing from current law. Under this legislation, the Nation's air will improve steadily from year to year. Some of my constituents believe that this bill is too strong, and some believe it is too weak. It is, in truth, a product of the legislative process; but a better product, I think, for that process.

This is a tough bill. It will make significant improvements in the public health, affecting millions of people. It will also impose significant costs on businesses. This legislation represents the most stringent air pollution control law on the books in the world today.

This legislation will force automakers to reduce smog-causing pollutants, demand that coal-fired utility plants cut back on sulfur dioxide emissions that cause acid rain, phase out production of ozone-depleting CFC's, and require steel, oil, chemical, and other manufacturers to restrict nearly 200 toxic substances in the air.

In the first round of controls, toxic air emissions will be reduced by 90 percent. Sulfur dioxide emissions, the precursors of acid rain, will be reduced by 10 million tons. I believe the additional allowances provided by the conference bill will help our Midwestern States meet the ambitious goal of the bill in a more equitable and economically sensible way.

By 1995, cleaner, reformulated gasoline is mandated in the nine cities with the most severe ozone pollution, and States may elect to have the requirements apply in other cities with ozone pollution problems. In comparison with conventional gasoline, reformulated gasoline will be required to have 15 percent lower emissions of volatile organic compounds and toxic chemicals by 1995, and 20 to 25 percent lower by 2000. The requirements for reformulated gasoline will also encourage the use of oxygen-containing additives like ethanol and MTBE.

Auto manufacturers are required to reduce tailpipe emissions of hydrocarbons and nitrogen oxides, which form smog, by 35 and 60 percent respectively, beginning with 40 percent of the vehicles sold in 1994 and increasing to 100 percent of vehicles sold in 1998. And fleet vehicles provisions will result in vehicles substantially cleaner than conventional vehicles.

Mr. President, most important as a public policy principle and to me personally, we have labored long and hard to achieve these goals using least cost solutions. I believe the marketplace is far too important to be either a force or a bystander in our pollution prevention efforts. As an ally, market mechanisms can help us achieve far more in the way of pollution prevention at far less cost to the economy as a whole. I am proud that the President cited Project 88, a report commissioned by the Senator from Colorado [Mr. WIRTH] and me, as the basis for the credit-trading program included in the acid rain title which is designed to introduce market forces into the achievement of our environmental goals. And I anticipate greater use of these incentive mechanisms as we address our imposing environmental agenda for the next Congress.

Mr. President, the conferees have been successful in improving this legislation during the long conference negotiations. As a whole, I believe that this bill is a good piece of legislation. I am particularly gratified that the conference produced some assistance for our coal miners who may be hurt, and hurt badly, by the Nation's urgent need to clean its skies.

Mr. President, clean air is in our Nation's interest. Despite our differences, and despite our regional concerns, each of us is elected to advance the national interest. I believe this bill does, and I will support it.

I congratulate President Bush, without whose initiative this process would not have started, the majority leader,

whose selfless work over many years has brought us to this point today, and my colleagues in the conference, whose attention to these complex and difficult issues has been meticulous and exhausting. This is sound legislation. It is important legislation. I urge my colleagues to vote for it. I urge President Bush to sign it into law.

Mr. RIEGLE. Mr. President, our present Federal budget dilemma is a result of unwise and unfair fiscal policies during the 1980's. Large tax breaks for high income people and excessive defense spending caused a large and growing structural deficit.

These dangerous fiscal conditions that now exist were largely hidden from public view because Social Security taxes were increased during the 1980's and these higher Social Security taxes paid largely by the middle class created a huge surplus that was then used to hide the growing structural deficit in the rest of the Federal budget.

This economic theory was called Reaganomics—it was also called supply-side economics or trickle down economics.

It was a strategy designed to tilt our tax laws to greatly favor the high income people and to put a large new tax burden on the middle class.

President Ronald Reagan used his great skill as a communicator to convince the people that if the tax laws were tilted in favor of the wealthy—the money would flow up the income scale, enable the wealthy to make new investments that would create jobs, and the money would then trickle back down through the economic system and eventually reach the middle class and the low-income people who would eventually come out ahead.

It was a snake-oil formula as George Bush himself realized in 1980 when he called it "voodoo economics."

At the same time an inadequate national savings rate caused an inadequate rate of capital investment, and our annual productivity improvement as a nation dwindled to less than 2 percent. This caused us to lag behind other nations like Japan, Germany, Korea, and Taiwan that were surging ahead. This in turn helped cause a huge U.S. trade deficit, which was greatly worsened by unfair trading practices by other nations that our Government failed to challenge. We are now adding international debt at the rate of $1 billion every 3 days and we will owe the rest of the world a trillion dollars within 2 years.

This sharp decline in America's economic and financial position over the past decade was not brought forcefully to the attention of the American people. Instead the prevailing politics of the 1980's was to mask the problem, and use phoney government accounting gimmicks and clever political advertising to create a false picture of U.S. economic and fiscal strength.

Perhaps the greatest examples of misguided Madison Avenue genius during this period were the Reagan Presidential reelection TV ads of 1984, built on the "morning in America" theme, and the George Bush Presidential election ads of 1988, built upon the theme of "Don't worry, be happy."

These highly successful advertising campaigns were false and misleading and have done much to bring us to the difficult realities now confronting our Nation.

What has happened in 1990 is that the economic chickens of the 1980's have finally come home to roost and the huge structural Federal budget deficits can no longer be papered over with more accounting gimmicks, more rosy scenario economic assumptions in the Federal budget calculations, or more sheer nonsense that tax inequity favoring the wealthy would somehow end up helping the middle class and others.

The hard fact is that Reaganomics has been steadily grinding down the middle class and creating a larger and larger underclass of permanently poor, many of them homeless and sleeping in doorways or cardboard boxes.

With the present Federal budget numbers now showing a projected Federal deficit above $300 billion and rising, a radical adjustment in fiscal policy has now become imperative.

That is why "read my lips" has become "read my hips," because President Bush has had to begin dismantling, however grudgingly, the false promises of the Reaganomics voodoo economics of the 1980's before these policies bandrupt the Nation.

With our Federal Government facing massive and growing structural deficits for the reasons mentioned, and our national economy teetering on the brink of recession, the Bush administration decided it must act now or face even worse economic circumstances in 1992.

All of this has brought us to the current moment of this budget deficit reduction package now before the Senate.

While today's package is better than the ill-fated summit package of a few weeks ago it is still terribly unfair to the middle class and to our Nation's elderly because of the major cuts it makes in Medicare.

While some of the excessive tax breaks given the wealthy during the 1980's are partly recaptured in this package we are still left with a Tax Code that is unfair to the middle class and which does not facilitate the new investments America must make in its people, its technology and its productive base. This budget is not designed to lift our national productivity rate from 2 percent a year to 4 percent a year and that must be the overriding goal of Federal fiscal strategy for the foreseeable future. It is an urgent need.

Despite the collapse of communism and the fall of the Berlin Wall defense spending is still too high in this budget and our free world allies are not asked to bear their fair share of the free world defense.

This fact is illustrated most dramatically by the overwhelming number of United States troops stationed in Saudi Arabia this very day and the meager and inexcusably small presence of our allies with either their troops or adequate financial support.

Moreover, there is another harsh truth buried in this budget reconciliation bill that has not been brought to the attention of the American people.

This 5-year plan will not reduce the Federal deficit, but add to it. Next year's Federal deficit under this plan will be higher than it is this year, and the cumulative national debt will keep rising inexorably.

In addition, the economic assumptions from OMB used to make projections in the budget years 1992, 1993, 1994, and 1995 are hopelessly unrealistic as the attached table shows. While these OMB economic projections forecast $490 billion of deficit reduction below the projected baseline over the next 5 years, the more realistic CBO economic projections predict the 5-year deficit reduction below baseline at only $236 billion, or less than half of what this package advertises.

I ask unanimous consent that the table of economic assumptions be included at this point in the RECORD.

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

TABLE V.A.—ECONOMIC ASSUMPTIONS

	(Calendar years)						
	1989	1990	1991	1992	1993	1994	1995
Nominal GNP:							
Level (in billions of dollars)	5,201	5,486	5,807	6,199	6,670	7,141	7,607
Percent change, 4th/4th	5.4	6.0	6.0	7.3	7.5	6.8	6.4
Real GNP, percent change, 4th/45h	1.6	0.7	1.3	3.8	4.1	3.7	3.5
GNP deflator, percent change. 4th/4th	3.8	5.2	4.6	3.4	3.2	3.0	2.8
Unemployment rate	5.2	5.6	6.1	6.4	5.6	5.3	5.1
Interest rates:							
91-day Treasury bills	8.1	7.7	7.2	5.7	4.9	4.4	4.2
10-year Treasury notes	8.5	8.7	8.3	7.1	6.1	5.6	5.3
Domestic oil prices (per barrel)	17.88	21.15	24.15	21.10	21.79	22.41	23.02

Mr. RIEGLE. Mr. President, those outyear economic assumptions envision dramatically lower interest rates, much higher economic growth, low inflation, and lower unemployment than can reasonably be expected. If these projections do not materialize, the Federal budget deficit could explode higher, into the $400 to $500 billion range. That is an extremely dangerous set of possibilities, and cannot be minimized given the current economic trendlines, and the accumulating structural weaknesses one secs in our banking system, in the insurance system, in real estate values, and in overleveraged corporate and personal balance sheets.

Major American cities, including New York, Philadelphia, and Detroit

are in extreme fiscal difficulty, and Federal budget cuts and a weak economy threaten further grave consequences.

The bottom line of this analysis is that this budget package is years late, very small, and lacks the sharp adjustment in fairness among income levels needed to adjust for the tax injustice of the 1980's.

This package does not solve our Federal budget problem, or our structural deficit problem. It is a first small step in that direction, but it only postpones a far more demanding day of fiscal reckoning that we should be facing now.

America needs a bold new economic strategy which targets substantial new investments into human capital and physical capital that can set in motion a surge in national productivity. That's what this budget should be doing.

We must invest in America and invest in the American people, and a modest surtax on yachts costing over $100,000 found in this package is not the kind of fundamental redirection that will enable us to catch the Japanese or the Germans in the global economic competition.

These are miserably hard realities we must face, and unless every citizen begins to understand the true dimensions of this challenge to our national well being, and think more of the common good than of one's private good in isolation from our urgent national requirements, then we face sharply growing stresses and traumas within our Nation and our communities and we face a declining future.

If America is going to revitalize itself, and engineer a national strategy that can produce a sustained economic surge, then we must look inward and build America to a new strength this budget does not even contemplate. It will mean new emphasis on education, job training and retraining, national health insurance for all people, and fostering new investments in research, development and applied high-value-added technology and production, that can greatly strengthen our private sector economy.

It will mean seeing every American citizen as important members of the team, of team America, and a contributing part of a more productive future for our country. Equality of opportunity must be linked to equality of sacrifice, built upon the belief that the good of each adds to the good of all, and the bonds between us all as fellow Americans, must be the focus and driving purpose of our national government.

This budget contains some elements of this sort, but it does not lay out a real plan for national success in today's global economy. I will continue to do all I can to move our Government in that direction.

Mr. HATCH. Mr. President, this body is considering final passage of one of the largest tax increases in history. I would like to explain to my colleagues and my constituents why I believe we should vote against this so-called deficit reduction package.

This country is in trouble, Mr. President. We know it, and our constituents know it. The budget deficit that we have struggled with for several years now is out of control. The credibility of the Federal Government is being seriously questioned, and for good reason. Despite yearly budget summits, despite the Budget Act, despite the fear of Gramm-Rudman-Hollings sequesters, despite the fact that all of us in Congress say we want a balanced budget—we have failed to gain control over the budget. In the eyes of many Americans, we are the problem and not the key to the solution.

We have before us now a package that is designed to reduce the deficit by nearly $500 billion over the next 5 years. This sounds very good. We all agree that the deficit is our biggest domestic problem and that it must be cut. We all recognize that significant steps must be taken now. But before we jump into this latest deficit reduction bandwagon, Mr. President, we ought to know what is on board.

I am unhappy with almost everything in this package, but one of the few things in this bill worth supporting is the child care block grant and its companion tax component. As my colleagues know, I have worked long and hard with Senators DODD, KENNEDY, MIKULSKI, and others to fashion a workable, effective child care bill. I am delighted that President Bush has accepted the package, and I want to recognize the effort made by his administration to help bring about this resolution.

I have said repeatedly that we do not need Federal child care—what we do need is Federal leadership in child care. The provisions of this bill will permit States to make their own decisions about child care programs and their own decisions regarding the care their children receive. And, these provisions will help improve the affordability, availability, and quality of child care, without overly burdensome governmental interference.

In addition to direct assistance in the form of grants, contracts, and certificates, it is my hope that States will use some of these funds to design their own innovative responses to child care needs. For example, programs could include liability risk retention pools, intergenerational programs, child care during nontraditional working hours, or other custom-designed programs. States will welcome this broad flexibility to address the child care needs of the families within their boundaries.

As pleased as I am with the child care provisions of this package, Mr. President, there is one thing that needs to be clearly understood. This legislation will raise taxes by $165 billion. While the authors of this bill tout it as a model of fairness, this is far from the case. It is more a collection of mismatched schemes designed to lift a great deal of money from the pockets of an unsuspecting population.

Among many other problems which I will discuss in a few moments, this bill contains a provision that imposes new rules and requirements, with respect to pension plan terminations. While this measure is considerably better than prior versions of pension asset reversion legislation, I do retain concerns that this provision will act as a further disincentive to employers to either start pension plans, or to generously fund those that already exist.

Some of my colleagues claim that America threw a huge party in the 1980's and we must now pay the price. They say the only answer is higher taxes. Mr. President, I flatly reject this position, because it is based on totally false premises. The economic growth we experienced in the 1980's came about because we pursued pro-growth policies. The deficit came about because we have never controlled Federal spending.

Regardless of what most people in this town believe, we do not need to raise taxes to balance the budget. Whether you measure it in nominal dollars, in real terms, or as a percentage of gross national product, tax receipts of the Federal Government are higher now than they were in 1980. In nominal dollars, Federal tax receipts doubled between 1980 and 1990. Even without any changes in the tax laws, revenues are projected to increase by almost $400 billion over the next 5 years. This is an average of $80 billion per year, without raising taxes.

Although revenue from taxes doubled during the past 10 years, Federal spending has increased even faster. This is why a balanced budget has been so elusive. Even though the money is pouring in through the top of the bucket at record rates, it is flowing out the bottom even faster. This Nation does not need more revenue, Mr. President. We need to slow down the money flowing out of the bottom of the bucket.

Everyone who has ever struggled to balance a family budget knows that there are two ways to make ends meet. You can either bring home more money, or you can cut out some of what you spend. This same rule applies to the Federal Government. The only difference is that if Uncle Sam wants more income, he does not earn more, he simply takes it from his citizens. And then, once he has it, does he use it to make ends meet? We all know the answer to this one. A report issued by Senator ROTH shows that between 1948 and 1986, for every dollar of new revenue received, the Federal Government increased spending by $1.58. Do we really believe that every dollar of new tax revenue raised by this bill will go toward deficit reduction? In 6 of the past 8 years, the Federal budget has been set by budget summit agreements between the President and Con-

gress. In all 6 budget summit years, new taxes were agreed to in return for an agreement on a lower deficit. Despite the agreement and the resulting higher taxes, the deficit has not been reduced. Promises of deficit reduction made in this reconciliation package will simply not be kept. I predict that within 2 years, and possibly by next year, we will be hearing the same call for new taxes to cut the deficit. New taxes lead to increased spending—not deficit reduction.

Our economy is on the verge of a serious recession. The Wall Street Journal reported on October 10, 1990, that most economists now believe that the economy is already in a recession, and many of them think it will be severe. I will ask unanimous consent that a copy of the Wall Street Journal article be placed in the RECORD following my remarks. If we place new taxes of the magnitude contained in this reconciliation bill on our economy now, we will deepen and lengthen the recession.

And, with a recession, there will be job losses. It is estimated that each 1 percent increase in unemployment raises the deficit by about $25 billion, and every 1 percent decrease in GNP raises the deficit by about $6 billion. Even a modest recession, with unemployment increasing by 2 percent, and GNP decreasing by 2 percent, would raise the deficit by $62 billion. Unemployed workers, Mr. President, do not pay much in taxes. Unprofitable corporations do not contribute to the Treasury. On the contrary, an economy in recession quickly reduces the amount of taxes paid to the Federal Government. The result of new tax increases may well be a decrease in total receipts. We cannot solve our deficit problems by placing recessionary tax increases on a stagnant economy.

Our best hope for solving the budget deficit crisis is to let our economy grow out of it. This can only happen if we follow national economic policies that promote growth. This package is as noteworthy for its lack of growth incentives as it is for its inclusion of tax increases. For example, this bill does nothing to spur investment in capital or in job creation. By passing a tax bill that will likely lead to a recession, we lose our best chance of getting the budget under control.

In speaking with my constituents about the deficit, I find that almost everyone agrees that the solution to the problem is going to involve some sacrifice and pain. This is understood; and almost universally, I find, the people are willing to pay a price to take care of the deficit. Most people are willing to see benefits cut and some are even willing to have their taxes increased. Two conditions exist on this willingness, however, Mr. President. The people will pay the price, but they want it to be fair with everyone called upon to do his or her part, and they want their sacrifice to be meaningful, and go toward true deficit reduction. This package promises neither.

Regardless of all the analyses, predictions, and promises, the simple fact is that each American will pay more in taxes if this bill passes. And, these new taxes will be permanent. As to deficit reduction, most of us admit in private that this package will not reduce the deficit. One only has to look at the significant increases in the appropriations bills we have just passed, to realize that this package will be a failure the minute it is signed.

Moreover, Mr. President, this package will tie the hands of the Congress in future years in trying to correct the problems this bill will bring upon our Nation. The so-called budget process reforms contained in the conference agreement will make it very difficult, if not impossible, to ever lower the taxes we are now raising. These tax hikes will damage the economy. The last time this country faced a recession, we were able to pull the economy out of its doldrums by passing a series of pro-growth measures, including tax decreases, that brought about the longest peacetime expansion this Nation has ever seen. As I have already discussed, we are already on the verge of a recession. These tax increases will certainly make the economic outlook much more dismal. Yet, by passing this bill and the budget process reforms, we are limiting our ability to fight this recession by passing growth and business incentive measures. It is ironic that these same budget process reforms that effectively prevent us from later lowering these tax increases also contain loopholes that will not be effective in limiting spending growth.

We are told, Mr. President, that passage of this budget agreement is the only real alternative we have. The elections are a few days away and the eyes of the Nation and the world are upon us, waiting to see what we will do. The pressure is on to pass this bill, even with its numerous flaws, because it is the best that can be done in this time frame.

We must not be deluded into falling into the trap of political expediency once again. There are other alternatives, which represent a more responsible and effective plan than raising taxes in the face of a recession and perpetuating the tax-and-spend philosophy that has created this budgetary quagmire in which we are stuck.

For example, we could pass a continuing resolution that freezes spending at 1990 levels until January 1991. This move by itself would do more to fight the long-term deficit problem than would this entire reconciliation bill. In January, the Congress could return and work out a plan that keeps spending levels under the growth rate of revenue.

Similarly, we might consider the 4-percent solution, a plan introduced by the distinguished Senator from Montana, Senator BURNS. This plan would allow spending to grow at a rate of 4 percent over the prior year, and it would not require a personal tax increase. It would not require a bigger gas tax. It would not turn our regulatory agencies into revenue agents. It would not hurt charitable organizations. It would not require an increase in FICA taxes. Instead, the 4-percent solution would eliminate the deficit by 1997. It is absolutely amazing in these times of economic woes and grave political trepidation that we have yet to consider or even debate this proposal on the floor.

The conference agreement before us is just another quick-fix solution. Few really believe that this package will last through the next Congress or allow us to avoid another round of budget hysteria in 1992. It will not be effective in cutting the deficit because it does not address the true cause of the deficit—too much Federal spending.

Until we come to terms with Federal spending, there will be no long-term solution to the budget deficit. Until we stop increasing Federal spending at a rate greater than the growth in revenues, we will never have a balanced budget. And, until we recognize that deficits can not be reduced by passing the single biggest 1-year tax increase in history, we will continue to teeter on the edge of financial disarray.

The American people have every reason to be suspicious of the ability of Congress to solve our budgetary problems. If this conference agreement is enacted, their suspicions will be justified for we will have failed once again to gain control over the budget. In fact, all we will accomplish is the one thing we collectively fear. We will increase the Federal deficit.

I hope my colleagues will join me in voting against the conference report and for a solution that directly curtails Federal spending, that institutes true budgetary process reform, and that will result in a balanced Federal budget. We can do better. We must do better.

I ask unanimous consent that the previously referred to article be printed in the RECORD.

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

[From the Wall Street Journal, Oct. 10, 1990]

GROWING GLOOM: A SEVERE RECESSION MAY BE DEVELOPING, ECONOMISTS SAY

(By Alfred L. Malabre, Jr.)

Most economists now believe that the economy has fallen into a recession, and many of them think it will be severe.

That's a sharp turn toward pessimism. A couple of months ago, most forecasters expected no recession at all. Now, the majority expect at least a mild slump. And a growing number of analysts are questioning their more optimistic colleagues' emphasis on the relatively lean inventories, the strong demand for U.S. exports and the prospects for an easier monetary policy. Reinforcing

their pessimism was yesterday's 78.22-point plunge in the Dow Jones Industrial Average.

The more downbeat analysts dispute, for instance, the idea that lean inventories can guarantee against a severe recession or that the Federal Reserve can readily turn around a sliding economy. There's growing concern, moreover, that the mild-recession view underestimates the pervasive financial problems.

"We've grown accustomed to equating the advent of a recession with physical problems in the economy—production bottlenecks, labor shortages and so on," says Paul J. Markowksi, an economist at Buckingham Research Group in New York. "But financial problems can be equally important." He recalls that financial imbalances, more than physical ones, preceded the deep depression in the early 1930s.

David B. Bostian Jr., chief economist of Jesup, Josephthal & Co., agrees adding, "I'm increasingly concerned that this could turn into much more than just a mild recession."

The economy probably began retrenching in June, Mr. Bostian estimates, and "with each new statistic from Washington, and the pileup of debt in all economic sectors, I grow more and more concerned that we could be entering a long, deep slump on the order of 1973-75 or 1981-82." Both of those recessions lasted 16 months, and unemployment reached 9% of the labor force in 1975 and nearly 11% in 1982.

Those recessions were far more severe than anything foreseen in the consensus forecast now. Typical of that view is the estimate of C.J. Lawrence, Morgan Grenfell Inc. Its analysts reckon that a recession set in recently and will last about 12 months and that economic activity will decline 1.3%. Such a drop would be only half the average decline in the seven recessions during the past four decades.

"We're encouraged to look for only a rather mild recession largely because we don't detect the sort of excessive inventory building that typically deepens and prolongs a recession," says Nancy Lazar, an economist at C.J. Lawrence. If inventories get too high, manufacturers would be under pressure to cut production. She adds: "It's only in the past couple of weeks, in fact, that we changed from a forecast containing no recession at all. We still don't think a recession is a sure bet."

GAZING INTO THE PAST—A COMPARISON OF PREVIOUS RECESSIONS

	Duration in months	Depth [1] (percent)	Top jobless rate (percent)
1953-54	10	−3.0	6.1
1957-58	8	−3.5	7.5
1960-61	10	−1.0	7.1
1969-70	11	−1.1	6.1
1973-75	16	−4.3	9.0
1980	6	−2.4	7.8
1981-82	16	−3.4	10.8
Average		−2.7	7.8

[1] GNP at annual rate, adjusted for inflation.

Charles B. Reeder, an economic consultation in Wilmington, Del., also anticipates a relatively mild recession. In addition to little difficulty with inventories, he notes that "the weakened dollar will help to sustain exports" because U.S. goods would be cheaper abroad. He also reasons that, because of the Mideast crisis, "the declining trend of defense spending will be temporarily reversed"—perhaps giving the economy a boost.

The latest survey by Blue Chip Economic Indicators shows a recession already under way. Released today, the newsletter finds that its 52 participaing forecasters expect, on average, overall economic activity to decline at an annual rate of 0.6% in the current quarter and of 0.1% in the 1991 first quarter. In the previous monthly survey, the Blue Chip consensus showd no quarterly declines.

Whatever sort of slump develops, most forecasters agree that huge imponderables make pinpointing its ultimate magnitude unusually difficult.

The largest uncertainty is the Mideast crisis and its effect on oil prices. Will they remain near today's high levels? Will they soon decline? Or will they climb further, as will surely happen if the oil fields are damaged extensively?

Another major uncertainty is the budget mess in Washington. How sharply will taxes ultimately be raised and spending cut? Will the result be an interest-rate drop that will spur the economy, as some analysts maintain? Or will the upshot be a brake on economic activity, as others warn? Normal fiscal policy when recessions strike, of course, is for the government to *lower* taxes and *raise* spending.

Even without such imponderables, many forecasters contend that it's far harder to judge the ultimate severity of a new recession than whether one is coming. They note that the Commerce Department's index of leading economic indicators fell sharply in the 10 months before the onset of a very mild recession in 1980—at six months the shortest downturn in business-cycle history. But the index fell only modestly for just three months before the 1981-82 recession, which is widely regarded as the worst since the 1930s.

"There are many indicators that will help you spot the approach of a turning point in the business cycle, which in this instance is a new recession," says Geoffrey H. Moore, director of Columbia University's Center of International Business Cycle Research. "But the same indicators, unfortunately, don't usually reveal very much about the nature of a coming recession. It's only after a recession has been under way for a while that you begin to get a sense of its eventual scope."

Accordingly, Mr. Moore regards analysis of a recent action of the leading indicators to be of limited value. The index, whose 11 components range from stock prices to plant-and-equipment orders, first reached its high for the latest expansion—a reading of 146.0 on a base of 1982=100—as long ago as January 1989. In August, the latest month for which the figure is available, it stood at 144.2, down 1.2% from July. This was the sharpest monthly drop since November 1987, soon after the stock-market crash.

In fact, Mr. Moore surmises that a recession arrived in June, well before Iraq's invasion of Kuwait and the surge in oil prices. "It has been deepening ever since and already looks to be at least of moderate severity," he adds.

The growing concern of forecasters such as Mr. Moore about a severe downturn partly reflects recent data from Washington's number mills. Statistics that reflect the *current* status of the economy, rather than its likely future course, have begun to drop. Included on the lengthening list of sliding statistics are such broad measures as industrial production, employment and construction outlays.

THE DEBT PROBLEM

Concern that a severe recession is developing also reflects more than numbers from Washington. Foremost among these problems is the unprecedented amount of debt in all sectors of the economy.

"We generally don't like trying to predict the severity of a recession because it's so tricky to gauge," says James J. Brzycki, an analyst at Northwestern Mutual Life in Milwaukee. "But with the vast amount of debt outstanding, we're becoming increasingly convinced that this one could be long and deep, with lots of business failures." It's when a recession hits, he adds, that high levels of debt begin "jumping up to bite you."

At present, the private and public debt outstanding amounts to nearly 2.5 times the gross national product, the nation's output of goods and services. That multiple is higher than at any time since the mid-1930s, when GNP was falling and business failures were surging. It compares with a multiple of about 1.7 nearly a decade ago, when the last recession developed. In earlier postwar years, the figure fluctuated between 1.4 and 1.7.

Especially worrying many economists is the likelihood that, whatever the outcome of the budget battle in Washington, the federal deficit will soar in a new recession. In recent recessions, that pattern has prevailed: Incomes and tax revenues erode, while federal payments to those hurt by the slump tend to rise along with unemployment.

The effect can be dramatic: At the start of the 1981-82 recession, the deficit was running at an annual rate of about $50 billion, and when the slump ended 16 months later, the red ink was near $200 billion. A similar fourfold rise now would propel the deficit above $600 billion.

The debt burden at corporations and among consumers normally diminishes during a long economic expansion. But not in recent years. Corporate debt amounts to more than 46% of the corporate capital, up from 34% a decade ago. Consumer debt, at close to 20% of after-tax income, also is far higher than before the last recession.

INVENTORY DEBATE

Although inventories seem relatively lean—there are about 1.5 times monthly sales—analyists who foresee a severe recession tend to discount that. They note, for instance, that the inventory-to-sales ratio for manufacturing and trade was a high 1.7 and rising before the harsh recession of 1981-82, but a low 1.5 and falling before the also-severe 1973-75 slump.

Consumer spending, in the consensus view, should hold up reasonably well. Optimistic economists cite, among other things, continued growth in income and a slightly higher rate of savings. Increasingly, however, forecasters fear that the recent weakening in housing prices in many areas will prompt consumers to trim their spending. No longer, the argument runs, will homeowners be willing to spend freely and let their savings slide because the value of their homes is surging.

Mr. Marks also disputes "the widespread notion that export growth, as a result of the weakened dollar, will keep the economy going." Exports, he says, "account for only 7% or 8% of GNP, which isn't nearly enough to offset weakness in other, larger sectors of the economy." He notes that consumer spending amounts to about two-thirds of GNP.

Strong growth in major economies abroad, of course, would tend to spur U.S. exports. However, the Center for International Business Cycle Research reports that "in much of the industrial world, growth—where it is continuing—is weakening." The center which tracks leading indicators in 11 major economies, foresees "either decline or no growth" in seven of them.

Some analysis also worry that the steep decline in Japanese stock prices in recent months will restrict the flow of Japanese investment into the U.S. As a result of the stock-market plunge in Japan, "we've been told to cut back our lending in the U.S.," says Alan P. Murray, deputy general manager of the New York headquarters of Fuji Bank Ltd.

Another worry is the considerable doubt over the Federal Reserve's ability to spur the economy. Robert H. Parks, an economic consultant in New York, believes that the Fed has been too slow to adopt an easier monetary policy and, as a result, he now fears a "major recession" instead of the mild one he previously expected.

Some analysts note that the economy, once it slips into a recession, often continues to retreat for a long while, even as interest rates fell and the money supply rises. The money supply—broadly defined to include most savings and adjusted for inflation—began to increase at the very start of the 1981-82 recession, and it continued rising through the recession. Most interest rates, moreover, fell sharply through most of the period. Yet, the slump persisted for 16 months.

Mr. McCAIN. Mr. President, I would like to voice my strong opposition to this budget reconciliation bill as I have to the budget resolution that led to it. I realize that months of work and endless sleepless nights have gone into its drafting, but unlike those who support it, I cannot believe this is the best deal we could get. And, it is a far cry from the kind of budget package demanded by the American people. It is, in fact, as far from what this economy needs as Arizona is from being a rain forest.

In my view, the huge budget deficits that have been the norm over the past dozen years are the biggest, most pernicious domestic problem before this Nation. They are the product of overgenerous social and defense programs that were implemented in the 1960's, 1970's, and 1980's, and which have never been reformed, terminated, or otherwise brought under control.

Since World War II there has been a steady deterioration in our fiscal policy—deficits as a percentage of GNP have doubled every decade since the 1950's. Our expenditures have ballooned—and so has the tax burden on the American people.

For years we have known that enormous Federal budget deficits plunder our national savings. We have been remiss for so long in controlling deficits that our savings rate has more than halved since the 1960's to less than 4 percent. Our savings rate is 40 percent of Germany's and only 20 percent of Japan's. And despite the lip-service that Congress pays to the importance of international competitiveness and the need to foster investment, the deficits keep getting bigger, and our expenditures keep setting new records.

It is the expenditures, Mr. President, that need to be brought into line. The waste, the inefficiency, the mismanagement, the redundancy—this is what the American people demand be trimmed from this budget, and this is what this budget agreement fails miserably in doing.

Instead, this budget package relies on the largest tax hike in history; it raids the health care program for our elderly; and fails miserably in instituting structural reforms that would help put the brakes on congressional profligacy.

Mr. President, let me first elaborate on my opposition to this tax increase. The Tax Foundation has recently done an analysis of the erosion of the average American family's real income which it anticipates this year. Part of the problem is inflation, which is on the rise. The rest is taxes. According to this report, since 1980, the Federal income tax bill paid by the median family has risen 56.9 percent. As a percentage of the family's total income, the Federal income tax claimed 13.7 percent of the family's total income in 1980—fell to a low of 11.8 percent in 1987—and has rebounded to 12.4 percent.

Now, we are about to foist another huge tax burden on these families.

These increases will be in the form of gasoline taxes, aviation taxes, excise taxes, and rate increases, and yet, it doesn't impose a surcharge on the 60,000 Americans whose income is $1 million a year or more.

Mr. President, I also resent that this tax package contains breaks for oil and gas, for wineries, and for other special interest groups who have influence over the tax writers of Congress. How can it be that we give breaks to the select few while ignoring millions of Americans who have made their opposition to new taxes clear in the two recent Presidential elections?

The truth of the matter is that this agreement repeats a mistake that was made no less than four times in the last 8 years. The mistake is that this is another bipartisan agreement in which the Republicans have acquiesced on taxes and the Democrats have indicated they will do the same on spending. In each of the past four agreements—in 1982, 1984, 1987, and 1989, promises were made to rein in spending and assurances were made that the new taxes would be devoted to deficit reduction. But, in every single case, Congress went ahead and spent the new revenues and the deficit surged. Ironically, in the years that there was no agreement, the deficit decline!

There is every reason that this year will be the same. The taxes will be the law of the land, and the spending side will be undone next year. This year may, in fact, be worse, because the $490 billion in deficit reduction that is supposed to take place over the next 5 years is predicated on continued growth in the economy. Yet, this economy is flagging.

It seems to me that heaping gobs of taxes on an already ailing economy is like giving fresh flowers rife with pollen to an asthmatic—it is a recipe for disaster.

This has been borne out before. Never since the Second World War have we raised taxes to over 19.6 percent of GNP—as this package undoubtedly will—without tipping the economy into recession. This time we are starting with a slow economy—anyone can figure out what $140 billion in new taxes will do.

Mr. President, the way to cut the deficit and the way to make this economy as robust as it has been during the last 95 months is to do what the taxpayers want us to do. We need to eliminate waste, inefficiency, and mismanagement before we even consider raising taxes. This package is 0 for 3 and yet we are being asked to agree to the largest tax increase in history?

Mr. President, I also disagree with the approach taken on Medicare. I have believed all along that this is not the time nor the place to be restructuring the Medicare Program dramatically.

The last time we tried to balance the budget on the backs of seniors, a firestorm swept the country. Fortunately, this conference agreement backs away from the significant increases in Medicare premiums and deductibles that have been contemplated throughout this budget process this year. But, it does not back away from it enough.

There is no question that we need to address rising health care costs, but to ask the elderly to pay more and more without doing anything to control the rising costs means that we will be right back picking their pockets next year when health care costs rise in the double digits once again. Plain and simple, increasing premiums without health care cost reforms or providing new benefits is a thinly veiled budget tax increase.

I am also very concerned about the impact of this package on Medicare providers because the House refused to accept the Senate's proposal to eliminate the urban/rural payment differential. I have advocated eliminating this differential for some time because there is no reason to paying rural hospitals less than urban hospitals for the same services. There is no indication that it is cheaper for rural hospitals to deliver care—and in fact, in some cases it is ever more costly.

I am pleased, however to see that there are several provisions in this bill which I do favor, like mammography screening and a number of important end state renal dialysis" measures which I sponsored with Senators BENTSEN and HEINZ, and which were included in the Senate-passed reconciliation bill.

I am also pleased at the inclusion of the proposal I offered with my good friend, the senior Senator from Missouri, to require hospitals to inform patients of living wills and medical directives upon their admission for care.

Let me also point out another improvement over the budget summit. I am pleased that the House has accept-

ed the proposal that I offered with Senators HEINZ and MOYNIHAN to the Senate bill which takes Social Security off-budget and out of the Gramm-Rudman-Hollings deficit calculations.

I favor this because the current practice is, in short, dishonest. Moreover, without the change, baby boomers would have found that as they reach retirement, the trust funds would begin to be drawn down, and there would be nothing but IOU's because the deficit has been allowed to offset the largest portion of the trust funds—interest payments and the tax revenues.

Obviously we can't let this happen. Pure and simple, the continuation of the practice of having Social Security on-budget and included in the deficit calculations would legitimize the concern that many baby boomers have—that Social Security will be unable to provide them with benefits when they retire.

Again, I am pleased that the House has agreed to the proposal to take Social Security off-budget and out of the deficit calculations.

Mr. President, the third major down fall of this package is that is lacks the budget process reforms that this institution so badly requires. We need real, structural reform in the budget process, not the complicated changes in this package which have fancy names that confuse the daylights out of everyone, including so-called budgeteers. We need budget reform that will require us to make our deadlines and that will impose discipline on Congress—the negligent keeper of the country's purse.

One of the most important budget reform measures we can adopt is the line-item veto. My friend from Indiana, Senator COATS, and I have offered our own line-item veto bill twice as amendments to spending bills, and twice we have lost on parliamentary maneuvers. Mr. President, the time has come for us to concede that Congress desire to fritter away the taxpayer's hard earned dollars is insatiable and that the President needs the line-item veto to curb that desire.

Over 70 of American taxpayers, who fund preposterous projects and special interest programs each year, support giving the President the line-item veto. This package seems only to contain the complex budget measures that the failed summit agreement contained, which will worsen this already confusing process. The new budget also contains special interest projects that are so offensive, like $500,000 for a Lawrence Welk memorial; $3.2 million for a neighborhood economic improvement project in New Orleans; and $1.2 million for a metals casting center in Iowa. With this type of waste, it is no wonder that the American people are losing their confidence in Congress by the day.

Under this proposal, we will continue missing deadlines and facing 11th-hour decisions again next year and the year after that and the year after that.

Finally, this agreement just won't work. The economic assumptions it is based on underestimate outlays; the temptation by committees to play smoke and mirrors games remains; and if the new taxes slow the economy, spending will burgeon and the revenues will fall short of projections.

It is vitally important to achieve the goal this agreement aims for—but it misses badly. As GAO recently wrote in a report on the budget deficit, deficits have an "ominous implication for economic growth."

I know that the President has had a difficult time negotiating with the Democratic leadership of this body. He has made serious concessions. In fact, he has had to go too far in his concessions to make the Democrats come along. It is because of many of these huge concessions that I oppose this package.

There are options that I do support, one of which is called the 4-percent solution and has been introduced by my good friend, the distinguished junior Senator from Montana. As most of my colleagues know, this would freeze all spending increases at 4 percent per year, thus requiring Congress to make spending decisions within a certain level of outlays each year. This would force Congress to make dozens of very difficult choices—and would leave the taxpayers alone. The reason the 4-percent solution works, Mr. President, is that the outlay freeze is barely enough to cover inflation and would result in a $50 billion increase every year. Revenues, on the other hand, are already projected to increase about $75 billion a year, and according to proponents of the plan, this would be enough to balance the budget by the late 1990's.

Another option would have been a $40 billion sequester. This is not the ideal solution by any stretch of the imagination, but with the economy in as weak a state as it is, one of the major advantages of sequester is that the taxpayers don't end up with the short end of the stick. Instead of taking money out of the hands of consumers, workers, investors, savers, the elderly, and others who would see an increase in their tax burdens, a sequester would make across-the-board cuts in most programs and would result in savings of as much as $335 billion over 5 years.

In other words, Mr. President, there are alternatives to the budget we are presented with today which do not have the egregious flaws of this proposal. They would get spending under control without taxes or an assault on Medicare. And, combined with budget reform, they would be the best medicine for our economy. This budget bill before us today amounts to business as usual at a time when our constituents want change and results. There are options which are much better, even though painful, and we ought to have adopted one of them.

ADA TAX CREDIT IN THE RECONCILIATION CONFERENCE REPORT

Mr. KOHL. Mr. President, I would like to draw my colleagues' attention to a small provision in the very large reconciliation bill we just passed. This provision establishes a tax credit for small businesses that accommodate their workplaces to disabled individuals. This credit is a small bit of light in the gloom and pain of the reconciliation bill.

I started working on this sort of tax credit over 1 year ago. In November 1989, I introduced S. 1876, the Small Business Rehabilitation Relief Act. This bill called for a 80-percent tax credit for small businesses making up to $4,000 in expenditures to make their businesses accessible to disabled individuals. Around the same time, my good friend, Senator PRYOR, also introduced a tax credit measure. Since last year, we have worked together closely, consulting with the disabled community, the small business community, and other staffs trying to put together a tax credit that was effective and that could pass this year. I am very pleased that all our efforts and hard work have paid off in the provision before us today.

We are calling for sacrifice in the reconciliation bill conference report, and many of our Nation's productive, small businesses will have to respond to that call. This is not an unusual situation. The Federal Government takes heavily from our small enterprises—with mandates, rules, regulations, taxes, you name it. What is unusual is that this reconciliation bill also gives back—to small businesses pursuing the worthy goal of bringing disabled individuals into their establishments as customers and as employees.

The conference report provides a 50-percent credit of up to $10,250 for small businesses—those with gross receipts less than $1 million or no more than 30 full-time employees—making expenditures to allow access to their workplaces by disabled individuals. The business must put down the initial $250, but after that, it will receive 50 cents back on each dollar spent on qualified modifications.

The definition of qualified expenditures tracks the types of expenditures will be required by the recently passed Americans With Disabilities [ADA]. However, it is important to note that the tax credit's date of implementation does not track the dates on which the ADA will apply to small businesses. Many small businesses will not be required to comply with the ADA for several years. The tax credit in this reconciliation bill, however, will immediately offer those businesses an incentive to make access expenditures.

In this way, the ADA tax credit complements and supplements the worth goals of the ADA. It will compensate

small businesses for the access expenditures they must make under the ADA, and it will reward small businesses for making those expenditures before they are required. The ADA tax credit is fair tax policy and sound economic policy. It acknowledges and partially compensates small businesses for the costly mandates that the Federal Government imposes on them. It encourages small businesses to make the investments needed to allow them to draw on the vast resources of the disabled community. I am delighted and proud that this provision is about to become law.

ON FINAL PASSAGE

Mr. KOHL. Mr. President, we have had a lot of time in the last month to discuss—and debate and complain about and distance ourselves from and criticize—the individual components of the budget package before us. There's a lot to hate here. I hate most isolated tax increases or spending cuts. There are few Members of Congress who relish imposing pain on their constituents.

But today, we're not being asked to vote "yes" or "no" on isolated provisions; we're being asked to vote on a complete and interrelated package. And it is on that package that I wish to speak.

The budget legislation does do the one thing that we all agree has to be done—reduces the deficit with permanent, straightforward measures. Now, I'm not enough of an optimist to believe that the package will achieve our original goals—$50 billion in savings this year and $500 billion over the next 5 years. As usual, unrealistic economic assumptions are scattered throughout this budget bill, and the enormous and unavoidable costs of the savings and loan bailout and Operation Desert Shield are not accurately registered. In addition, the last couple of weeks of negotiations have led to concessions on spending cuts here, concession on taxes there, and some erosion of the budget's original savings.

The conference report, however, will achieve real savings of at least $35 billion this year and $350 billion over the next 5 years; that's better than this Congress has ever done in the past. The package includes serious deficit reduction, and it will get serious results. That's a bottom line we should all support.

But it's the fine print above the bottom line that has caused all the fury. The details of this conference report are a compromise and have all the strengths and weakness of a compromise. The weaknesses are easy to identify. Too many special interests left their fingerprints on this package; too few urgent needs were met. It is shameful that we found room to give tax breaks to the oil industry, but we could not find money to ensure all American children a healthy infancy and decent schools.

The conference report's strengths are less obvious. The greatest strength is that at least 51 percent of Congress can support it—not embrace it, not recommend every word of it, but vote for it. This package is a miracle of democracy. It was put together by men and women representing different regions, different people, different world visions, and different priorities. It is a product of a democratic system: It embodies tough decision that were made slowly and noisily and, when all's said and done, fairly.

This said, I would like to discuss for the record three serious reservations I have about this conference report.

My first resolution is procedural. The reconciliation bill properly includes enforcement provisions. I would have made no sense to spend so much time and effort enacting deficit reduction measures if we did not also intend to make those measures stick. However, the enforcement provisions in this package go further that just enforcement of the package. They change the body and soul of the congressional budget process.

Where in years past, we tried—often without result—to match our expenditures with our receipts, now we will focus on preset spending ceilings. These ceilings are written into law. They won't change with the unforseen needs of the Government or with the changing priorities of this body.

This new way of budgeting separates our spending decisions from our bottom line. No business or no family could run its operations on this basic principle. Firms, banks, multinational corporations, even other countries, must look both to how much money they have coming in and how much money they have going out. In the long run, the two sides of this equation have to match up. Only the United States—because it is large and powerful and vital to the world economy—has been able to get away with piling up debt year after year after year. And even the United States, with all its power and importance and vitality, has started to reach the limits of how much it can borrow.

Yet, the new budget process established by the reconciliation bill denies that we are coming to the dangerous end of our enormous line of credit. The new process says that it is the budget policy of the United States to ignore what we add to the debt each year as long as we hit certain preset spending targets. Budget policy will no longer be fiscal policy—it will no longer be an overall decision about how much the U.S. Government should borrow from the private sector. Budget policy will be appropriations policy: how can we keep within the spending caps we've set—no matter how unrealistic, unresponsive, or irresponsible they are.

Adopting a budget process that separates Federal spending from Federal receipts sends the same message that President Reagan did when he told the American people that they could have lower taxes, higher defense spending, and a balanced budget. And look where that policy has brought us. We face, as David Stockman faced 10 years ago, $200 billion deficits as far as the eye can see. We face a national debt that will grow to about $5.1 trillion dollars in the 5 years that this deficit reduction agreement covers. And, we face many more years of tough budget choices.

We cannot stop focusing on the bottom line—even if it will make it easier to enforce this important deficit reduction agreement. The bottom line is our primary responsibility, and I am afraid this conference report ignores that.

My second reservation about this conference report is substantive. A last minute addition to the package phases out personal exemptions for taxpayers with incomes starting at $100,000 for single tax payers and $150,000 for joint filers. Don't let anyone fool you, this is no new tax innovation. This is the bubble shoved up the income scale. The effect of this provision is that we will have five separate tax brackets: 15 percent, 28 percent, 31 percent, 35 percent, and 31 percent again. That's not much of an improvement from the earlier four tax brackets.

On its face, this provision doesn't look so bad. It taxes those who can afford it. It takes away a tax break afforded to some upper income taxpayers by the replacement of the old 33-percent bubble with a 31-percent rate. It raises revenue.

What I don't like about the new bubble is that is it makes our previous, earnest, and legitimate criticism of the old bubble look ludicrous. We argued that it doesn't make economic sense or common sense to have one group of taxpayers paying a higher marginal rate on their income than the most wealthy taxpayers. And we were right. We argued that the bubble had a heart of gold—phasing out the benefit of personal exemptions and the low 15-percent rate—but that there were clearer ways to construct a progressive Tax Code. And we were right. We argued that if we wanted progressivity, we should simply create an explcit third rate—at 33 percent, 35 percent, 38 percent, or whatever we decided was necessary. And we were right.

By replacing the old bubble with the new bubble, the conference report makes it look like this Congress doesn't understand our own arguments about basic tax theory. The insertion of the new bubble at the last minute confirms what many outside this institution already believe about us: When it comes right down to it, and there are difficult decisions to be made, we choose expediency over reason.

My third reservation encompasses the substantive and the procedural. Congress, congressional committees,

groups of Congressmen and administration officials, worked long and hard on this bill—too hard and too long to justify the final result.

By saying this, I don't mean to demean the final conference report. It is real deficit reduction. It is fair. It is very important that we pass it before Congress adjourns.

I am disturbed, however, that it took so much agony and acrimony, time and energy, to write a deficit reduction plan that will slow almost imperceptibly the precipitate growth of our national debt. It was so hard to ask for the sacrifices we needed this year. Are we—Congress, the President, and the Nation—going to be able to make the further sacrifices needed to bring our crippling national debt under control?

I sincerely hope the answer is yes. I believe that the economic road ahead of this Nation is rough. But there are a lot of great ideas for Government out there, a lot of lessons that our constituents can teach us, a lot of opinions that we should listen to. And there is Congress, designed to funnel and package those diverse views into legislation that equitably meets important national needs.

Mr. President, I will vote for the conference report today, not because it's good but because it's better. It is better than the summit agreement: the Medicare cuts are mitigated, the gas tax bite is softened, the tax on home heating oil is eliminated, the unemployment benefits waiting period is eliminated. It is better than the Senate reconciliation bill: it is more progressive, it asks for a greater sacrifice from the upper income individuals who gained so much from the fiscal policy of the 1980's, it raises the top income tax rate. And finally, it is most certainly better than nothing.

Doing nothing is no longer an option. We must deal with the deficit now, or it will deal with us—and in a manner more harsh and inequitable than any deficit reduction plan that could come out of Washington. It is not easy or fun to do the responsible thing. But that is what we must do today. I urge all my colleagues to support the conference report.

Mr. LEVIN. Mr. President, I want, first, to express to the bipartisan leadership of the Senate and the House my appreciation for their extraordinary efforts to arrive at the budget agreement embodied in this reconciliation bill. It is because those efforts were so sustained and so well intentioned that I particularly regret that I cannot support the results of their work.

I agree that we need to reduce the deficit if we are to safeguard our Nation's economic prosperity now and in the future. This concern is not new to me.

In 1981, I voted against the Reagan tax bill because of its unfairness and because it was likely to lead to huge budget deficts. The budget submitted by outgoing President Reagan for fiscal year 1990 included a table which indicated that the effect of the 1981 tax bill in fiscal year 1990 would be to reduce revenues in that year alone by $357 billion. In 1981, I also voted against the Defense appropriations bill for fiscal year 1982 because I opposed the excessively high funding level of the Reagan military budget, as well as the emphasis on nuclear over conventional forces within that budget.

In 1986, I voted against the tax reform bill because I believed that it represented a missed opportunity for deficit reduction through tax reform. I also believed that it would eventually make deficit reduction in the future more difficult and less fair. It put us on a glidepath for tax increases on the middle class. At that time, I stated that we were setting the stage for a deficit reduction bill which "would impose taxes on many of the very people who are supposed to benefit from this tax reform bill and who are among the least able to shoulder additional revenue burdens and additional tax burdens." I also stated that "once the Congress has approved of the pending conference report on the tax reform bill, the revenues from a strengthened minimum tax and from loophole closing will already have been soaked up to pay for the uneven tax cuts. Then, we will have to face the prospects of increased consumption taxes, or increased income tax rates, or unacceptable spending cuts, or inadequate deficit reduction." The bill before us today is, unfortunately, the grand slam realization of this prediction.

I will vote against this legislation for three main reasons.

First, this reconciliation bill is still too heavy a hit on middle income taxpayers and does not ask enough from the highest income Americans who benefited the most from the 1980's. After taking into account the affect of taxes and inflation, the top 1 percent of the population—those making over $200,000 a year in 1980—saw its income almost double by 1990. But at the same time, middle-income Americans could barely keep their heads above water or actually sunk below. This legislation before us makes some efforts to correct this situation, but still asks middle income Americans to pick up more than their fair share of the leftovers from the party thrown for the wealthiest Americans by the Reagan-Bush administration in the 1980's.

The gasoline tax included in this bill represents the wrong tax at the wrong time. It comes on top of the Saddam Hussein gas price hike, which has already pressed the patience and stressed the pocketbook of middle and low income Americans. If the maxium income tax rate was raised to 35 percent for taxpayers making over $200,000 a year, as I proposed during the consideration of the Senate version of this bill, the gasoline tax increase could have been totally eliminated. In addition, if my amedment had been adopted, it would have been possible to avoid most of the Medicare cutbacks in this bill which will increase out-of-pocket costs to seniors for their health care benefits.

Instead, this legislation deflates one tax bubble and creates another one, and does not contain any surtax on millionaires. The net effect is that the highest income taxpayers are still not paying the highest marginal rate, and middle income taxpayers are, in effect, asked to make up the difference.

Second, this legislation bakes in spending levels and priorities for defense and domestic discretionary spending for the next 3 years. I believe it is wrong to fix for 3 years in advance in three separate categories spending at those high levels. I am concerned that for each of those categories the so-called caps will in fact also turn out to be floors. This creates the paradoxical situation in which limitations on spending will actually encourage spending fully up to the limit.

Also, this bill as a practical matter, will make it impossible to transfer spending from defense to nondefense or vice versa during the next 3 years without there being the 60 votes not only to waive a point of order, but also the 67 votes to override a potential Presidential veto. The reason for this situation is that if there is a successful attempt by waiving a point of order to exceed the limit in any category, then there is an automatic sequester in that category of spending back to the limit. The only way to avoid the automatic sequester would be to change the underlying law itself creating that sequester, which change would presumably be vetoed by the President. Therefore, 67 votes would be needed to override the veto and to shift priorities in the next 3 years.

If the events of the past year should teach us anything, it is that the rise and fall of needs and crises should make us pause before establishing a level of spending for several years in advance. With the Berlin Wall falling and the Warsaw Pact distintegrating, now is not the time to put military spending on automatic pilot. If we are to meet the challenges of trade, technology, and crime in the future, we cannot continue to reflexively pour resoures in fighting a European war that is more history than reality.

Third, the economic assumptions on which the budget plan is based are overly optimistic. I would like to believe that in 1992 the inflation rate will drop from 4.6 to 3.4 percent, that interest rates will drop from 7.2 to 5.7 percent and that GNP will grow from 1.3 to 3.8 percent. However, the history of economic projections during the 1980's—starting with David Stockman's Rosy Scenario and Murray Weidenbaum's visceral computer—is that they tend to be more optimistic than realistic. The new effect of overstating

our likely economic health in the future is that it leads to our underestimating the deficit reduction steps that we need to set in place now. It would be terrible that if after having gone through what must appear to the American people to be the legislative equivalent of slow motion mud wrestling, we came up with a deficit reduction package which is not up to our rhetoric nor up to the task. I am concerned that the economic assumptions underlying this reconciliation bill will lead it to fall far short of the mark.

To end where I started, I believe that we need fair and comprehensive deficit reduction and would have liked to have supported a package which would have accomplished that. However, this reconciliation bill, in spite of all the extraordinary efforts expended on its behalf, is not fair enough, not flexible enough, not realistic and not comprehensive enough for me to support.

PUBLIC HEARING REQUIREMENT

Mr. DOLE. The conference report requires that States must have a policy concerning public hearings on premium increases for Medicare supplemental health policies. It is my understanding that this policy requirement reflects the belief of the conferees that each State should address the issue of when public hearings, may be appropriate, balancing all relevant factors including the solvency of the affected companies. It is also my understanding that no inference is to be drawn that any particular State's policy is inadequate

I would like to ask the distinguished chairman of the Finance Committee if my understanding of the intent of this provision is correct.

Mr. BENTSEN. The Republican leader's understanding of the intent of this provision accurately reflects the intent of the conferees.

Mr. LAUTENBERG. Mr. President, the reconciliation bill includes the Pollution Prevention Act of 1990. This provision is based on S. 585 which I introduced and which was reported by the Environment Committee a few weeks ago. The Pollution Prevention Act establishes what I believe will be the new environmental ethic in this Nation.

Mr. President, do not take my word for it that this bill is needed. EPA Administrator Bill Reilly has called the bill "a big step in the right direction * * *" The National Roundtable of State Waste Reduction Programs which represents the 38 State programs, says that the bill "provides a catalyst, focus, and process for actually implementing the national policy of waste reduction." And the Chemical Manufacturers Association, which represents the chemicals industry, says that the bill "* * * is an important step in the development of an effective national pollution prevention program.

Until now, almost all of our environmental efforts have involved regulating pollutants after they are generated. The Pollution Prevention Act is designed to foster efforts to eliminate or reduce pollution before it is generated.

At a hearing last year before the Senate Subcommittee on Superfund, Ocean and Water Protection which I chair, OTA estimated that the United States generates 400 billion pounds of toxic substances each year. These emissions can adversely affect human health and the environment. And this volume of pollution grows each year as disposal capacity shrinks.

The safest way to protect the American people and our environment from these pollutants is to eliminate or reduce them before they are generated. EPA estimates that we have the ability to reduce the generation of hazardous wastes and other pollutants by up to 30 percent while the Office of Technology Assessment suggests that a 10 percent for each of the next 5 years is achievable.

And source reduction has the potential to provide significant cost savings to industry. Currently, $77 billion are estimated to be spent on pollution control in the United States each year. By reducing the amount of waste generated, we can reduce these pollution control costs.

The Office of Technology Assessment, in its 1987 report, "From Pollution to Prevention: A Progress Report on Waste Reduction," found that source reduction efforts have proceeded slowly because industry lacks information about the opportunities and benefits of source reduction. This is especially true for small and medium sized firms which may need both technical assistance and financial aid to identify opportunities for source reduction and put promising techniques into practice. Yet virtually all of our regulatory efforts have been directed toward managing wastes and controlling other pollutants after they are produced.

The Pollution Prevention Act addresses the information shortcomings identified by OTA and provides the legislative backbone for a source reduction program. EPA would provide grants to States for technical assistance programs for businesses and for source reduction training. The bill would establish a source reduction clearinghouse to disseminate information on source reduction opportunities.

And industry would be required to provide data on source reduction and recycling efforts as part of their reporting requirements under the Right-To-Know Program. Information would have the same protection from disclosure as is provided under the Right-To-Know Program.

Mr. President, there is strong support for this bill in the Senate. S. 585 has been cosponsored by 32 other Members. Similar legislation in the other body had 204 cosponsors and passed unanimously. And a version of this bill passed the Senate twice in 1988. Unfortunately, there was not enough time at the end of the last Congress to resolve the few areas of disagreement between the House and Senate versions of the bill.

The concepts embodied in the Pollution Prevention Act have received the support of a diverse group including the National Roundtable of State Waste Reduction Programs which represents 38 State waste reduction programs, the Chemical Manufacturers Association and a number of environmental groups including the Sierra Club and the National Wildlife Federation. The support this legislation has received clearly demonstrates the wide recognition of the need to significantly increase our efforts to eliminate or reduce the generation of hazardous wastes and other pollutants before they are created.

The Pollution Prevention Act will promote source reduction throughout the country. It will help business understand the value of source reduction techniques, and how to implement them. And it will foster the development of pollution prevention technology.

I ask unanimous consent that copies of letters in support of the Pollution Prevention Act be printed in the RECORD.

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

CHEMICAL MANUFACTURERS ASSOCIATION,
Washington, DC, October 16, 1990.

Hon. FRANK R. LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: The members of the Chemical Manufacturers Association (CMA) urge you to support S. 585, the "Pollution Prevention Act of 1990". The chemical industry has long recognized the value of integrated waste management programs. This "hierarchical" approach to waste management is the cornerstone of national policy set forth in S. 585. CMA believes the bill, which creates a comprehensive national data base to identify trends in waste generation and management, is an important step in the development of an effective national pollution prevention strategy.

CMA is a nonprofit trade association whose member companies represent more than 90 percent of the productive capacity for basic industrial chemicals in the United States.

The bill, as passed by the Environment and Public Works Committee is consistent with CMA's recently implemented waste release and reduction plan, which is part of CMA's broader Responsible Care initiative. The purpose of Responsible Care is to commit the chemical industry to continuously improve its performance. S. 585 and the industry's commitment share the common goal of reducing waste generation and improving the quality of environmental protection associated with waste disposition practices. The public made clear they want waste and release quantities cut. We are dedicated to addressing these concerns.

The Chemical Manufacturers Association urges your support of the "Pollution Prevention Act of 1990" (S. 585). CMA's member companies look forward to a continuing dialogue with you and your staff as related issues are discussed in the context of

the reauthorization of the Resource Conservation and Recovery Act (RCRA).

Sincerely,

ROBERT A. ROLAND.

NATIONAL ROUNDTABLE OF STATE WASTE REDUCTION PROGRAMS,
Minneapolis, MN, July 17, 1990.

Hon. FRANK LAUTENBERG,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR LAUTENBERG: The National Roundtable of State Waste Reduction Programs was established in 1985 to promote the exchange of information and the development of state programs to reduce the generation of all wastes which are hazardous to human health and the environment. Participation in the Roundtable has increased to include at least forty-five states, fourteen universities, and ten non-profit organizations. In those few programs where state funding has been provided to support program activities, the level of resources provided is generally less than one-half of one percent of the funding available for pollution control and regulatory programs.

It is critical that effective coordination and leadership at the federal level be established where it does not already exist, and continued where it has already been established. Sufficient resources must also be provided to assure that waste reduction becomes a reality throughout the United States. Without these basic commitments, the national policy that "the generation of hazardous waste is to be reduced or eliminated as expeditiously as possible" (HSWA, 1984) will not be carried out. The long-term benefits anticipated by this policy will not be accomplished unless the immediate needs for resources and leadership are addressed now.

Having taken the initial lead on waste reduction, states are now at a critical juncture regarding their waste reduction program development. States must formally certify their capacity to treat and minimize hazardous waste; states must document to the public that wastes are being minimized, in order to have a credible siting process for treatment and disposal facilities; states must respond to increasing numbers of requests for information and technical assistance on waste management and waste reduction; and a growing number of states must implement waste reduction legislation which mandates waste reduction activity by generators.

Reports to Congress by the Environmental Protection Agency and the Congressional Office of Technology Assessment, as well as by other groups, have focused attention on the importance of waste reduction. A major area of agreement in these reports is on the need for significant federal effort in the areas of information-gathering and dissemination, technical assistance, and data collection, for waste reduction activities, implemented through state waste reduction programs. The National Roundtable concurs with these conclusions. In addition, the National Roundtable strongly endorses the provisions of the Pollution Prevention Act (S. 585), which comprehensively responds to state and federal needs in this critical area. The legislation provides a catalyst, focus, and process for actually implementing the national policy of waste reduction.

We look forward to a strengthened and productive state/federal partnership in reducing and eliminating hazardous wastes for our own generation and those to follow.

Sincerely,

TERRY FOECKE,
Director.

Participating states: Alabama, Arkansas, Connecticut, Illinois, Kansas, Maine, Michigan, Missouri, New York, Oklahoma, Rhode Island, Texas, Washington, Alaska, California, Florida, Indiana, Kentucky, Maryland, Minnesota, New Jersey, North Carolina, Oregon, South Carolina, Vermont, Wisconsin, Arizona, Colorado, Georgia, Iowa, Louisiana, Massachusetts, Mississippi, New Mexico, Ohio, Pennsylvania, Tennessee, and Virginia.

NATIONAL WILDLIFE FEDERATION
OFFICE OF THE PRESIDENT,
Washington, DC, May 24, 1989.

Hon. FRANK R. LAUTENBERG,
Hart Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: The National Wildlife Federation commends you for cosponsoring the Pollution Prevention bill, S. 585. We are pleased S. 585 has engendered broad Senate support with more than 25 cosponsors to date. As you know, NWF supported your Hazardous Waste Reduction bill in the 100th Congress.

This bill addresses the production of hazardous waste, a serious threat to public health and the environment. The Federation's recently released report, *Danger Downwind*, documented emissions of more than 2 billion pounds of specific toxic chemicals into the air during 1987. The Environmental Protection Agency (EPA) has calculated total toxic chemical emission of more than 20 billion pounds for industry during 1987. Also according to EPA, American industry produces almost 600 million tons of hazardous waste annually: over two tons of hazardous waste for every man, woman and child each year.

The toxic inundation overtaking America contaminates air, water and land resources. It is a problem common to all these media, and cross-media transfer leads to unanticipated problems. For example, a recent National Academy of Sciences report attributes toxic chemical contamination of the Great Lakes to air emissions, waste water point and non-point runoff from surface and groundwater sources.

Reports from the Congressional Office of Technology Assessment, EPA and public interest groups have shown that waste reduction—the actual elimination or reduction of wastes created during manufacturing processes—is the best way to keep toxics out of our environment. While the importance of strong, effective pollution control laws cannot be overestimated, emphasis on waste prevention also will promote creation of a healthier environment. The Waste Reduction bill is an important step in the right direction.

S. 585 mandates EPA's development of an essential database on source reduction and recycling through expanded industrial reporting requirements. By identifying the quantities of chemicals released to environmental media and the techniques of industrial waste reduction, the bill would provide environmental managers, the Congress and the American people with the first nationwide profiles of waste reduction activities. This information will promote efficient allocation of scarce public resources for research and regulatory action. Most importantly, the data will provide each industry with goals and suggest methods for achieving their own maximum waste reduction potentials.

Through its state grants program and computerized data clearinghouse, S. 585 also would provide technical and financial support essential for waste reduction programs in every state. Currently only a few, underfunded state programs provide technical assistance and technology transfer to businesses interested in reducing chemical wastes.

The Pollution Prevention bill increases opportunities for removing toxic waste from the nation's land, water and air. NWF supports S. 585 and looks forward to working with you to strengthen waste reduction efforts.

Sincerely,

JAY D. HAIR.

NATIONAL TOXICS CAMPAIGN FUND,
Boston, MA, September 19, 1990.

Hon. MAX BAUCUS,
U.S. Senate, Washington, DC.

DEAR SENATOR BAUCUS: The National Toxics Campaign Fund (NTCF) urges you to do all that you can give priority passage of S. 585, the Pollution Prevention Act.

NTCF is a membership coalition of citizens, community leaders, scientists, statewide consumer organizations, environmentalists, health activists and dumpsite groups formed to develop and implement solutions to what many see as a national toxic crisis. For seven years members of our staff have designed, evaluated and promoted government policies for industrial pollution prevention. NTCF takes pride in the fact that its legislative activities, its public education efforts and many of its more innovative policy proposals for industrial pollution prevention are widely recognized and that many of its ideas have been adopted, particularly within the environmental community. Based on our longstanding involvement in the area of pollution prevention we believe that S. 585, the Pollution Prevention Act, is a superior piece of legislation.

Nearly everyone agrees that that industrial pollution prevention is an economically sensible response to some of our nation's most stubborn environmental problems. The unique environmental, economic and societal benefits of industrial pollution prevention hardly need to be restated here. What few people recognize, however, is that for all of the glib talk about industrial pollution prevention over the past five years and despite the unquestioned theoretical primacy of pollution prevention, this is an environmental option that is not being given the focused attention and the substantial government support that it deserves.

EPA activities in this area remain largely unimpressive. The Agency's pollution prevention actions have proved to be scattered, poorly defined and quite limited in effect. Without a national program created by Congress we see little hope for improvement of EPA pollution prevention policies and programs. In addition, while a number of exemplary state programs now exit, state progress has been slow and uneven. Many state programs still lack clear direction, are underfunded and have minimal institutional visibility.

Passage of S. 585 in 1990 would signal to EPA and all the states that Congress sees pollution prevention as a national priority. The bill would lay a solid foundation for industrial pollution prevention by providing:

An acceptable federal definition of source reduction that excludes hazardous waste recycling from pollution prevention.

Needed institutional support, information, analytical resources and guidance for state programs.

A range of policy instruments, including pollution prevention reporting requirements, a federal grant program, technical support for industry, and a biennial EPA report to Congress.

One important feature of S. 585 is that it is designed to provide the necessary amount of guidance and support to states without handcuffing them to an overly restrictive federal effort.

The quick passage of S. 585, independent of the RCRA reauthorization process, is crucially important if the nation is to realize the substantial benefits of industrial pollution prevention.

Sincerely,

DAVID W. ALLEN,
Director,
NTCF Pollution Prevention Project.

U.S. PUBLIC INTEREST RESEARCH GROUP, NATIONAL ASSOCIATION OF STATE PIRGS,
September 20, 1990.

HON. MAX BAUCUS,
Senate Hart Office Building, Washington, DC.

DEAR SENATOR BAUCUS: The Pollution Prevention Act (S. 585) addresses one of the most serious threats to public health and the environment facing our nation today: toxic pollution. The undersigned organizations believe that the Pollution Prevention Act has the potential to provide publicly available information and technical assistance of the greatest value. We urge you to support passage of S. 585 with a minor change.

S. 585 will:

Develop a data set on source reduction techniques;

Establish a Source Reduction Clearinghouse which will serve as a center for source reduction technology transfer;

Develop a state grants program and provide states and businesses with the technical assistance necessary to develop source reduction programs; and

Provide for public availability of the data.

One of the greatest strengths of S. 585 is that it will involve public "oversight" in source reduction efforts. However, S. 585 does not require industries to report the destination of off-site shipments of chemicals for recycling, treatment or disposal. We urge the Senate to add the destination of off-site transfers to the reporting requirements in S. 585.

The public has a right to know about the fate of chemicals generated by industrial processes. The off-site burning or reformulation of toxic chemicals should enjoy no special exemption from reporting requirements, and thereby from public scrutiny. Information on the destination of chemical shipments is readily available to the facilities and will help regulatory agencies and communities verify whether a particular industry has engaged in a true "pollution prevention" activity.

In addition, the legislative record on this bill should clearly reflect the fact that S. 585 is an information and research bill that will not substitute for comprehensive federal toxics use reduction legislation. Although we believe that S. 585 could act as an important information gathering tool, S. 585 does not require industries to reduce the amount of toxic chemicals used or hazardous wastes generated. For this reason, the passage of S. 585 should not be construed as obviating the need to enact comprehensive federal toxics use reduction legislation in the near future.

The Pollution Prevention Act reflects a growing recognition by Congress of the need to adopt a new approach to environmental protection and policy-making. With the above-mentioned change, S. 585 will become a significant step toward true pollution prevention. We would be pleased to discuss the contents of this letter with you or your staff, at your convenience. Thank you for your consideration.

Sincerely,

Carolyn Hartmann, U.S. PIRG; A. Blakeman Early, Sierra Club; Ed Rothschild, Citizen Action; Casey Padgett, Environmental Action; William Walsh, Greenpeace; Ann Maest, Environmental Defense Fund; Kenneth A. Brown, Clean Water Action.

Mr. BRADLEY. Mr. President, I rise in opposition to a budget agreement that continues to reflect a mistaken vision of our Nation's priorities over the next 5 years. Higher taxes for middle-income taxpayers, new tax loopholes for oil and energy investors, continued spending on obsolete defense missions, and additional burdens on the aged and the sick are the wrong direction for this country to head in. I would support a budget that built on the changing nature of American leadership in the world, that improved our productivity, that sought to repair the bonds of community in our cities, that improved the education and health care for all children, that treated clean up of our environment with the urgency of a moral obligation. Such a budget that reflected our real needs could also cut the deficit. This is not that budget.

I must acknowledge that this conference agreement is a far better bill than the original budget summit agreement, or the first reconciliation package, both of which I opposed. I am very pleased that the impact of Medicare cuts on senior citizens has been reduced dramatically, and that Medicaid benefits for poor children are extended. I am glad that there is no deep cut in the tax rate on capital gains. I am glad to see that the Superfund will be extended for 4 more years. And I think it is a step in the right direction to raise the top income tax rate slightly in order to lessen the burden of the deficit reduction on those less able to pay. While these improvements are worth noting, and should be applauded, they are not enough to transform a bad budget bill into a good bill.

First, the bill continues to refuse to recognize and take advantage of the dramatic changes in our relationship with the Soviet Union. That country is now committed to withdrawing all its armed forces from Central Europe within the next few years. It is cutting support for its old clients in Cuba, Vietnam, and North Korea. Its deteriorating economy will force a deeper retreat from military purposes and prevent it from resuming imperial quests until the next century, if then. Although Soviet or Russian military power will remain a long-term concern, it will not generate threats in the 1990's comparable to those we faced in the 1980's. We can safely concentrate on the many lesser challenges America faces, such as the threat Iraq poses to the oil fields of the Persian Gulf, and we can safely discard unduly expensive weapons systems designed to counter Soviet threats. We can insure our security with a smaller defense budget.

This budget package continues to waste taxpayers' money on such military luxuries as the B-2 bomber and oversized naval forces for 5 more years. For 5 years we will continue to squander our resources on the threats of the past, instead of reassessing our national defense to anticipate the actual threats to American security interests in the future. And this bill compounds these wrong-headed priorities by making it impossible to shift defense savings to critical domestic priorities in coming years. In other words if next year we want to cut a weapons system and use the money to feed or educate our children we will need at least 60 votes to accomplish it. Why should it be easier to raise taxes, which takes 50 votes, than it is to clean up the environment or improve the health or education of our children, which takes at least 60 votes.

Second, the bill does not do enough to keep taxes low and fair for middle-income families. This package raises taxes on middle-income families, and it does so in order to give away new tax breaks for wealthy oil and energy investors. That is wrong and it is unfair.

We should reduce the deficit by closing tax loopholes, not by opening new ones. Under this plan, families earning $20,000 to $30,000 a year would pay more. Families earning $30,000 to $40,000 would pay even more. These are not well-off families. They face extraordinary burdens in our complex society. It's one thing to ask these families to make some sacrifices for the purpose of reducing the deficit. It's quite another thing, though, to ask them to make sacrifices so that we can put more money in the pockets of wealthy oil and gas investors who are already benefiting from high oil prices. This provision of the package skews our priorities for the present as well as for the future. In addition the part of the bill which includes the so-called extenders—special interest tax breaks—perpetuate the hidden-deficit trick. If these special breaks were extended for 5 years—the length of the agreement—they would cost $20 to $25 billion. To hide the true cost, they are assumed to expire at the end of next year. Of course, at that time they will not expire and someone else's taxes will be raised to protect them. But right now no one says anything about that.

This package raises taxes on the middle class but instead of using that revenue to reduce the deficit, it squanders part of it on new revenue-losing provisions to benefit healthy industries and wealthy people. This kind of waste hurts the efficiency of the economy and the drags it creates could be a force pulling us toward a recession. Indeed I believe the 1986 tax reform law, with its low rates and improved efficiency, is the main reason we have

not had a recession in the last 3 years. While not a dramatic departure, this bill does turn back toward the past.

Besides these problems, this package places an undue portion of the burden of deficit-cutting on those least able to bear it—senior citizens dependent on Medicare. Raising the deductible for Medicare is not a solution to the problem of high health care costs. It will not, as some have argued, discouraged large numbers of people from using unnecessary health services. It is simply a tax on being sick. Similarly, the increased Medicare premium is simply a higher tax on the elderly. While Medicare cuts might be some part of a balanced deficit-reduction package, senior citizens dependent on this limited program should not be the first place we look for money. There is no place for this unfairness in our Nation's priorities for the next 5 years.

A serious but humane effort to cut the deficit, I believe, should look first to the particularly wasteful agricultural support programs. As with defense, we need more than the modest reforms included in this package. As long as we treat wealthy and poor farmers alike, as long as we treat career farmers and hobby farmers alike, we will squander the limited funds available. We need structural reforms, not Band-aid approaches. Our agricultural programs should reflect the stress not only on farmers but on taxpayers being asked to support big corporate farms as much as small family farms. In tough times we have to choose. In this budget we have not.

Finally, Mr. President some have said this package is an attempt to rectify the excesses of the 1980's. The original sin of these deficits was the tax bill of 1981. It also significantly reduced the progressivity of the Tax Code. I voted against it and I also voted for spending cuts in 1981. If the rest of Congress had voted this way the deficit would have been in surplus in 1985 and there would have been no suggestion of something as disastrous as Gramm-Rudman.

My deepest misgiving about this package is that we seem to have learned very little from the mistakes that led us to this deadlock of an artificial crisis and that produced a bad agreement simply because getting a budget agreement—any agreement—became our only object. This package makes totally unrealistic economic assumptions. How many people really believe interest rates will be 4 percent in 1995? Why do we continue to manipulate the budget numbers by phoney assumptions? It has been the practice for the last decade and it is one of the reasons people are losing faith in Government. If we were serious the practice would end. In this agreement, it has been perpetuated.

This package also assumes continuation of the ill-advised Gramm-Rudman guidelines for 5 more years, with additional restrictions that will make it more difficult to use the "peace dividend." The ghost of our last failed deficit reduction plan haunts this one. For 5 more years, we will be driven into bad policy decisions and gridlock by furlough notices and threatened cutoffs of vital services. As only a very few of us realized in 1985, no rigid formula or magic procedure will reduce the deficit for us. Only cautious choices that recognize our long-term national priorities can lead us to a fiscally sound future.

Despite the improvements made in the past month of constant crisis, I cannot accept that this budget package sets us on the proper path for our Nation over the next 5 years. For 5 years, taxes would be higher to pay for loopholes for the rich and for the oil industry. For 5 years, the middle class would make sacrifices while the military continued to squander resources on obsolete weapons and defense systems that don't address our security needs. For 5 years, senior citizens who need help with health care costs would be required to pay more.

If it is enacted, I suspect that it will not take 5 years for us to realize that this budget package has failed to achieve its goals. I would not be surprised if these questions come up again in the 102d Congress, and I hope at that time, we will be ready to step back and undertake a more open-minded effort to develop a budget that reflects our national priorities. I stand ready to make those tough choices.

COASTAL ZONE REAUTHORIZATION

Mr. LAUTENBERG. Mr. President, I am pleased that the reconciliation bill includes the Coastal Zone Act Reauthorization Amendments of 1990. The coastal zone provisions are based on S. 2782, the Coastal Zone Improvement Act of 1990 of which I am an original cosponsor. These provisions would reauthorize the Coastal Zone Management Act [CZMA], strengthen the act's consistency provisions by reversing the Supreme Court's decisions to restrict the ability of States to protect their coastal zones from Federal activities, and establish a coastal nonpoint source pollution control program.

Mr. President, more than 75 percent of the Nation's population is expected to live within 50 miles of the coast by the end of the century. Our coastal areas are becoming increasingly important for recreational use, fishing, and water-related businesses and industries. As a result, these areas are facing increasing, conflicting demands.

The CZMA establishes a program for Federal, State, and local governments to manage our precious coastal areas and address these conflicting demands our our coasts. State CZMA programs must: protect lives and property from hurricanes, flooding, erosion, and the effects of other natural disasters along the coast; protect fish and wildlife habitat; provide public access to shorelines and recreational opportunities; assist in restoring waterfronts; and ensure the proper siting of coastal factilities for transportation, energy and coastal defense needs. It is essential that we reauthorize this unique program.

I am particularly pleased that the bill reverses the decision in *Secretary of the Interior* v. *California*, 464 U.S. 312 (1984) in which the Supreme Court inexplicably held that Outer Continental Self [OCS] oil and gas lease sales are not subject to the consistency provisions of the Coastal Zone Management Act. Under the consistency provisions, Federal actions must be consistent with federally approved State coastal zone management programs. OCS activities clearly can affect land or water uses and natural resources of State coastal zones. This provisions will restore the proper role of States in controlling Federal activities such as OCS lease sales which affect their coastal zones.

Mr. LAUTENBERG. Mr. President, I am going to vote against the conference report on the budget reconciliation bill.

Mr. President, the need for deficit reduction is apparent to all. It is urgent. It is critical. We must do something to get control of our country's debt and our Nation's future. And we must do it soon.

I am committed to reducing our deficit and I have supported proposals to do so. Just this year, we in the Senate Budget Committee developed a budget resolution that would have reduced the deficit by about $54 billion in fiscal year 1991. That is significantly more than the $40 billion called for in the summit agreement.

Mr. President, I was opposed to the budget summit agreement worked out between White House and congressional leaders, and I also opposed the reconciliation bill that passed the Senate last week. Both of those packages, in my view, were unfair to middle-class families, the elderly, and the future of our country.

I voted for amendments to improve the package, and to move it toward the type of legislation I could support. I supported the amendment offered by the distinquished Senator from Tennessee [Mr. GORE] which would have reduce the tax burden on the middle class, reduced the Medicare cuts included in this bill, and asked the wealthiest Americans to bear a larger share of the tax burden. I supported an amendment by the distinguished Senator from Iowa [Mr. HARKIN] which would have eliminate the increase in the Medicare deductible, and asked millionaires to pay a modest surcharge to pay for it. While the final package moves in the direction of these efforts, it falls short.

Mr. President, reducing the deficit is vital. But it is equally important that we do so fairly, in a way that promotes growth. Unfortunately, in my view, serious defects remain in this package.

Mr. President, this legislation still includes real tax increases on middle-

class Americans. These increases could have been avoided or reduced if the President and the Congress had been willing to cut spending, particularly for the Pentagon, and to forego lucrative new tax breaks for the energy industry. And given the real pressures facing today's middle-class families, they should have been avoided.

Mr. President, ordinary, middle-class people in New Jersey are adjusting to a significant change in the State tax structure. Our economy is struggling. Working New Jerseyans are hard pressed to pay their mortgages. Hard pressed to save for their children's education. Hard pressed to keep their heads above water.

Senior citizens must cope with ever rising medical expenses and other costs of living. Yet this package would increase their monthly premiums and increase the amount of money they have to take out of pocket, before Medicare pays their bills.

The tax plan in this package is particular skewed against New Jersey. The limits on individual deductions will hit New Jersey harder than other States. Moreover, it is a disturbing precedent that I fear will pave the way to a front attack on the deductibility of State and local taxes.

I also remain very concerned about the unjustified and unwarranted tax breaks that are being provided in this bill to the energy industry. I supported an effort to restore the windfall profits tax on the oil industry. Unfortunately, that amendment failed. Instead we see new tax breaks. The oil industry is reaping huge profits as a result of the crisis in the gulf. The taxpayers are already paying at the pump. They should not have to pay again through the Tax Code.

It is not right, Mr. President, and I will not support it.

Before we hit middle-class taxpayers even harder and before we hit the senior citizens on limited means, we simply must eliminate much of the waste and excess in our military machine. It is wrong to ask middle-class families to pay for it through increased taxes. And to ask our senior citizens and our hospitals to pay for it through cuts in Medicare.

Pentagon spending over the past 10 years has exploded. In 1980, as the cold war raged and the Soviets occupied Afghanistan, we spent a total of $134 billion on defense. Under the budget plan before us today, not counting any spending related to our operation in the gulf, we are being asked to endorse defense spending in the range of $300 billion for the next 3 years.

Mr. President, that is too much. As Eastern Europe has been transformed, we heard a lot of talk about a peace dividend. Well, Mr. President, the word should go out—with the passage of this package, the peace dividend has been canceled.

Mr. President, 10 years ago domestic discretionary spending constituted 23 percent of the Federal budget. Today it constitutes 11.9 percent. We have seen real cuts in education, in housing, in community development. We have failed to maintain our physical infrastructure, and we continue to neglect the needs of America's infants and children.

In a nutshell, Mr. President, we have underinvested in this Nation's future, while we have continued to build more excess into our military machine.

The so-called budget process reform provisions of this package protects defense spending from any cuts that would shift funds to help Americans build strength at home, with their families, in their neighborhoods, in their towns and cities. The bill places virtually insurmountable procedural obstacles in our way. That, Mr. President, is unacceptable.

So in sum, Mr. President, this conference report is an improvement. But it still places too great a burden on the middle class and the elderly. It still provides unwise tax breaks to the energy industry. And it still fails to address the problem of runaway Pentagon spending.

I think we should have done better.

THE FINANCE COMMITTEE STAFF

Mr. BENTSEN. Mr. President, as we complete action on this reconciliation bill and move toward adjournment, no one is more relieved than I am. No one, perhaps, except the seemingly tireless members of the Finance Committee staff.

For 5 months of the budget summit, they have been at work and on call. They endured our long negotiations, then stayed behind to pour over the revenue estimates and draft the proper legislative language. They spent countless days, endless nights, and working weekends ever since last spring.

These talented men and women are the unsung heroes of the legislative process. Before they, and we, take a well-earned rest, I want to offer a few words of praise and thanks.

To Van McMurtry, the chief of staff, whose sound judgment and careful management skills. Made this long ordeal productive and successful.

To Sam Sessions, chief tax counsel, who contributed his detailed knowledge of the most arcane tax issues as well as a refreshing sense of humor.

To Marina Weiss, chief analyst for health and human services, who demonstrated, as always, her professional expertise and humane judgment, as she worked through the night to finish her part of the package.

To Bob Kyle, chief international trade counsel, Bill Halter, chief economist, and Chris Peacock and Laura Wilcox, who helped the news media understand what we were doing.

Mr. President, virtually every member of the Finance Committee staff made superhuman efforts despite little sleep and the usual end-of-session confusion. I want to thank them publicly for their skill and dedication.

Thanks to the tax staff: Denise Roy, Maurice Foley, Randy Hardock, Norm Richter, John Leggett, Don Spellman, Caroline Graves, Ann Goshorn, and Jenny Finneran.

Thanks to the health and spending staff: Joe Humphreys, Margaret Malone, Richard Lauderbaugh, Lisa Potetz, Janis Guerney, Katrina Osterhoudt, Donna Ridenour, and Jeanne Roby.

Thanks to the trade staff: Eric Biel, Marcia Miller, Deborah Lamb, Nelle Pace, Jennifer Bergstrom, and Gayle Fralin.

And thanks to the hearing clerks, support staff, and receptionists—who also had to work long hours under unusual pressure, but whose efforts were vital for the legislative process to function. I want to commend Gloria Fralin, Judy Jackson, Janet Blum, Darcell Savage, Kerri Goshorn, Mark Blair, Josh Cooper, Chris Baker, K.C. Hahn, Dave Baker, Eric Mayer, Wayne Hosier, Bob Merulla, and Bruce Anderson.

Mr. President, I owe a special word of thanks to Janet Milne, my legislative assistant who is the key link between my personal staff and the Finance Committee staff. She performed her vital job with consummate skill.

And I cannot neglect the able and dedicated staff of the Joint Committee on Taxation, starting with Ron Pearlman and Stuart Brown. They gave substance to our proposals and precision to our estimates.

I especially want to commend Bernie Schmitt, the joint committee's chief revenue estimator. He and his staff calculated the revenue effects of 290 complete deficit reduction packages during the summit and the subsequent reconciliation process.

Mr. President, these talented staff people are an asset to the entire Senate, not just the Finance Committee. They make it possible for us to accomplish what we intend as national policy, and to avoid mistakes from ignorance or inadvertence. We make the decisions, but their dedicated efforts make it easier for us to make sound judgments.

The Finance Committee staff deserves a rest. They ought to get reacquainted with their families and loved ones. They deserve weekends. Away from the telephone, and nights far away from their computers.

But as they recharge their batteries, they should be proud of what they have accomplished. They have helped us to fashion a solid, durable, effective deficit reduction package. They have been the quintessential public servants. They have made a difference for good in our lives.

Mr. SANFORD. Mr. President, my argument with the conference report on budget reconciliation is not with the overall amount of deficit reduction it should achieve over a 5-year period. There are certainly many things included in the deficit reduction portion

of this legislation that I do not like and would like to see changed. Every Member of the U.S. Congress can find fault with specific aspects of this legislation. But it is serious deficit reduction, and as a total package, it is far more balanced and far more fair to working families than was the summit agreement.

Part of my argument with this budget reconciliation legislation involves the budget process changes included. These changes are significant and will have a profound negative impact on the future of this Nation.

The budget process changes weaken the Gramm-Rudman weapon of sequestration and allow us to turn a blind eye on our massive national debt. Deficits, even our phoney deficits, no longer matter. So long as we achieve a prescribed amount of deficit reduction in each of the 5 years, debt and deficits do not matter.

The budget process changes create two loopholes large enough for Fort Knox to slip through. They make it easier for the President to underestimate spending needs without retribution and to overestimate economic strength without reproach.

The first loophole allows the President to continue to assume 4-percent interest rates, economic growth three or four times stronger than will be the case in his budget proposals, and not be held accountable. It allows the Office of Management and Budget freedom to continue building into the President's budgets unrealistic forecasting that translates into tens of billions of dollars in debt increase not subject to sequestration or any requirement to take any corrective action. This is an economic adjustment loophole that will completely escape any budget enforcement ax.

The second loophole is even worse. Under this proposal, the President's budget can drastically underestimate the cost of Desert Shield, for example, and not be held accountable. This too or any emergency spending will escape the meat-ax approach of sequestration under this proposal and there is no requirement or even incentive for the President or Congress to develop a plan to pay for emergency spending. This spending will not even trigger sequestration, because this loophole is a technical correction to accommodate emergency spending.

These are gigantic budgetary loopholes that weaken, not strengthen, budget process enforcement.

Some of my distinguished colleagues might point out that normal appropriated spending is capped under this process reform. To that I would ask what good are caps if untold amounts of spending is out from under those caps? What good is sequestration if untold amounts of spending will be untouched by automatic spending cuts?

It is a spend-now-borrow-now budget. This is not the pay-as-you-go budget it is reported to be. Social Security will continue to be a pay-now-pay-again-later program. The process changes included in this reconciliation legislation require a pay-when-caught budget, not pay-as-you-go.

This is not the pay-as-you-go budget it is reported to be. Social Security will continue to be a pay-now-pay-again-later program. Other parts of the budget will be able to easily operate on a spend-now-borrow-now basis. The process changes included in this reconciliation legislation require a pay-when-convenient budget, not pay-as-you-go.

Gramm-Rudman opened the door to budgetary games and gimmicks. I do not believe it was designed to do that, but nonetheless it allowed them. This new budget process package is a gimmick in and of itself. It is a gimmick designed to let the White House and Congress off the hook. It is a gimmick that allows the White House and Congress to perpetuate the illusion that we are moving toward a balanced budget while we are actually moving further away from a balanced honest budget.

Mr. President, we are elected to deal with tough problems that need attention, not to turn our backs on them. The budget process reform included in this reconciliation measure allows us to turn our backs on our annual deficits and on the debt itself.

Mr. President, I am also concerned that this so-called budget enforcement package does not require an honest accounting of the Federal budget. It takes a giant step forward by removing Social Security surpluses from the deficit calculations, but it continues to allow the use of other Federal retirement programs to mask the read deficits, the increase in debt.

We will still be allowed deficits of convenience that can be easily manipulated. The budget resolution itself included two different sets of deficits that were not even remotely correct, but they were convenient deficits to use in the fiscal year 1991 budget resolution. Another set of deficit numbers are included in reconciliation, yet they too fall well short of the $400 billion we will likely add to our debt in that same fiscal year.

This coverup of debt has not served us well in the past and will not serve us well in the years to come. It is time to stop this deceptive behavior, but this package falls short of that.

This reform package also does nothing to guarantee that the new taxes included in reconciliation will be spent for deficit reduction. I think we should be able to guarantee that and I know the people of North Carolina believe we should be able to guarantee this.

I cannot support a proposal that perpetuates a false sense of deficit reduction for the next 5 years as we have done for the past 5 years under Gramm-Rudman, while permitting tremendous hidden deficits to pile up even more debt, already by far the largest in the history of this Nation.

Mr. COCHRAN. Mr. President, passing this bill is like taking medicine. It is not fun. It is not something one likes to do, but we have to do it, if we want the deficit reduced in an orderly way.

So, not liking it, I have decided to be on the side of those who will do what is necessary to help deal with the budget crisis. The alternative to passing this bill is chaos, and we have had enough of that this year.

COASTAL ZONE IMPROVEMENT ACT

Mr. KERRY. Mr. President, a year and a half ago I met with Governors, Congressmen, and a number of my Senate colleagues, and we signed a coastal covenant to protect our shared coastal resources. On that day in June 1989, other Members of Congress and I committed to develop a comprehensive legislative coastal protection initiative and ensure its passage this session. Today I rise in support of passage of such legislation which is perhaps the most significant coastal initiative since the writing of the Clean Water Act and the Coastal Zone Management Act two decades ago.

Mr. President, our oceans, coastal waters, estuaries, and wetlands have come under extreme stress. The need for improved coastal protection in our coastal areas is obvious. Each year factories dump an estimated 5 trillion gallons of waste water into our coastal waters; 2.3 trillion gallons of sewage pours into America's coastal waters; and population growth continues to add increased stress to our coastal communities. Nationally by the year 2010 the number of individuals living in coastal areas is expected to increase from 80 million today, to 127 million. This accounts for an estimated 60 percent increase in coastal population. Some suspect that in the State of Florida for example, population will grow by 200 percent by the year 2010. In Massachusetts we have also witnessed an unprecedented population explosion in our seaside communities. Roughly 5.8 million people currently live in the State yet 2 million reside in our coastal communities. That number has doubled in the past 15 years with no end in sight for this population growth. With this growth comes untold environmental degradation.

Shellfish bed closures continue to increase both in Massachusetts as well as nationally. In 1976, 76,000 acres of shellfish beds were closed in my State. To date this year that number has reached 117,102 acres closed. And last year, Mr. President, it is estimated that shellfish bed closures resulted in an economic loss of $94.5 million. I don't have to remind anyone of the economic downturn that faces the Northeast, and this kind of loss due to pollution is just not accetable. In addition, to further emphasize my point let me say that between 65 and 75 percent of the shellfish consumed in my home State last year was harvested

outside of Massachusetts because of our increased shellfish bed closures.

Our coastal regions are under siege from a number of manmade problems such as oilspills, development, urban and agricultural runoff, beach pollution and the like.

According to NOAA, our estuarine and coastal wetlands are significantly decreasing each year. Nationally we have witnessed a loss of 50 percent of American's wetlands since the Europeans landed several centuries ago.

Mr. President, a decade ago point source pollution was the primary cause of degradation to our coastal waters and estuaries. The Clean Water Act has made significant improvements in that area, and today nonpoint source pollution is the major reason for the decline in the quality of our water.

Today, I join with several of my colleagues—the chairman of the Commerce Committee, Senator HOLLINGS; Senator STEVENS; Senator PACKWOOD, and a number of other members of the Commerce Committee, in urging passage of S. 2782, the Coastal Zone Improvement Act which reauthorizes programs under the Coastal Zone Management Act. The legislation is designed to improve our water quality by addressing coastal non-point-source pollution, providing land use planning to protect our coastal areas, as well as protecting our coastal habitats, fisheries, and wetlands.

In 1972, Congress, recognizing the increasing threats to the Nation's 90,000 miles of coastline, passed the Coastal Zone Management Act which established a unique Federal/State partnership to protect our coastal resources and manage activities affecting the coastal areas. In order to improve water quality there is not a program that makes more sense than the CZMA Program. It gives States and localities a great deal of discretion on working to improve their water quality problems, while at the same time offering the stability of a Federal program.

With regard to the Coastal Zone Management Act reauthorization it has been the subject of two hearings before the Commerce Committee. During those hearings we received testimony from NOAA and the EPA, as well as environmentalists, representatives of fisheries, the oil industry, and State program directors on how to improve the Coastal Zone Management Program. The hearings focused on the Federal implementation of the Coastal Zone Management Act and a number of other reauthorization issues.

In order to come to grips with the myriad of problems facing our coastal areas, the legislative package before us today strengthens both the CZMA, and the Clean Water Act. It addresses such issues as non-point-source pollution, wetlands preservation, and Federal activities such as off shore oil and gas leasing which affect the coastal zone.

The primary tool the CZMA Program has in dealing with coastal water quality is through its ability to manage land use activities. By adding buffer strips to coastal areas, and addressing poison runoff such as pesticide runoff from lawns and storm water runoff from highways, and parking lots, the CZMA Act will strengthen our ability to better control non-point-source pollution. The passage of this legislation today will ensure a stronger link between State water quality agencies, State CZMA programs and the Federal water quality programs.

The legislation also clarifies that States have the ability to review Federal activities that affect their coastal zone. It provides States with a measure of control over Federal activities such as oil and gas leasing which affect their coastal zone.

In addition, the bill addresses problems associated with global warming which is caused by excessive releases of man-made gases into our atmosphere from the burning of fossil fuels, deforestation, and the production of chlorofluorocarbons which is estimated to cause sea levels to rise 1 meter by the year 2050. This legislation encourages States to take the necessary precautions to prepare for such rise. Models have shown that a 1½ -foot sea level rise in Massachusetts would prove devastating, wiping out 10,000 coastal acres, and causing at least $10 billion in damage. We witnessed the consequences last year of Hurricane Hugo in South Carolina, that is the same type of situation that must be prepared for if sea levels rise.

To protect wetlands the spawning grounds to our fisheries our legislation provides grants to States to develop wetlands protection programs.

The legislation establishes a new set of coastal enhancement grants which States can apply for to improve coastal programs in the following six areas: wetlands protection, hazard prevention, public access, marine debris, fishery management cooperation, and special area management planning and ocean planning. This will give States the opportunity to address coastal problems unique to their State.

Mr. President, the need to pass this legislation is critical. A recent study for the United Nations by the Group on the Scientific Aspects of Marine Pollution reported that coastal pollution is on the rise globally. Population growth, land use activities, and manmade problems are responsible for this trend. This study shows the clear link between coastal water quality and land use. It highlights the fact that coastal planning and development control measures are essential to our coastal protection. Mr. President, the extent of our coastal problems goes far beyond our existing laws. Old solutions will not do. New approaches like those set out in our bill, in addition to education efforts, and enlightened lifestyles will offer us the answers. Now is the time for Congress to focus its attention on an environmental threat of historically unprecedented proportions—the destruction of our coastline and the fouling of our oceans and coastal waters.

Mr. President, I urge my colleagues to join with us today in passing this coastal protection initiative that will make a serious difference in our coastal areas, the quality of the environment we live in, and the economic vitality of our coastal communities, States, and the Nation.

Mr. KERRY. Mr. President, on many occasions, I have stood before this body to speak on the need to reduce the budget deficit. I have said that the single most important thing we could do to encourage economic growth was to cut the deficit and drive interest rates down. And, I have explained that the most painful legacy that we could leave to our grandchildren would be a colossal national debt.

My thoughts on this issue are reflected not only in my speeches, but in my votes as well. I was the first Democratic Senator from the Northeast to cosponsor the Gramm-Rudman-Hollings bill as an important step in that direction. I have voted against budget resolutions, reconciliation bills, and appropriations measures over the years when I believed that they were inconsistent with achieving real deficit reduction and did not reflect the values and priorities of the people of Massachusetts.

After not having taken action on the budget deficit in the mid-1980's when reduction measures would have been less painful than they are today, Congress and the President finally got serious about the budget this year. But, in the year that the White House and Congress finally got serious and were prepared to enact a multiyear deficit reduction package, we developed our package behind closed doors through months of negotiations.

What did these negotiations produce? The answer, Mr. President, is that as time ran out, the harried budget negotiators put forth a package that may have been a careful compromise, but did not reflect the priorities of the constituents of many Members of Congress. As a result, the initial summit agreement brought to the House floor was defeated by a majority vote of Republicans and Democrats alike.

The agreement, however, had enough merit to serve as the basis of a budget resolution that became the outline of a reconciliation bill. This resolution, therefore, would be the foundation for any future agreement, it would set the boundaries for all of our future discussions and ideas on deficit reduction.

As I indicated at that time, I would apply three criteria to forming my opinion about this resolution:

First, it must be fair to the working people of Massachusetts. It must not

discriminate against our region of the country. It must not continue or increase the burden of the middle-class families of our state and unfairly benefit those with substantial wealth.

Second, it must be consistent with the expansion of the Massachusetts economy and recovery from the serious recession that we are currently in.

Third, it must have real, substantial multi-year reductions and abandon the recent practice of phony budgets with rosy economic assumptions and gimmicky short-term measures predominating.

Although it was the most heroic measure in history to take decisive action toward reducing the budget gap, this agreement did not meet my conditions. And, therefore, I voted against it.

As I said at the time, the budget resolution took the path of least resistance. It relied too heavily on increased taxes and too little on reduced spending. It takes courage and careful analysis to cut unnecessary programs and to trim wasteful spending and mismanagement. Unfortunately, this resolution lacked courage and careful analysis. The summiteers missed large potential cuts in the defense budget, in excessive subsidies to agriculture, in breaks given to businesses conducted on public lands, and in loopholes for oil and gas and other businesses. Had the summiteers taken the House proposal for the Defense budget, for example, we could have saved $62.5 billion alone.

The resolution also failed to target these unnecessary and wasteful programs and instead identified the Medicare Program and veterans benefit programs, among others, as areas to cut.

By ignoring cuts in meaningful places, we were left with $135 billion or more in new taxes that could have been, in whole or in part, avoided. And, if this were not bad enough, the majority of the taxes proposed were regressive taxes on, for example, gasoline that would have unfairly burdened the working people of Massachusetts.

The budget resolution was passed despite my opposition. The die was cast. The debate and the negotiation that followed proved to be over the remaining details: what portion of the agreed to tax increases would be gasoline taxes versus other kinds of taxes; how should the user fees be levied; and, what should the final form of the spending cuts be?

Given the parameters set out in the resolution, the intermediate result, the budget reconciliation bill, and now the final result, the conference report, were not surprising. These results turned out to be a significant improvement over the previous resolution, but not a large enough improvement to satisfy me or my constituents. The products that followed the resolution simply could not overcome the foundation upon which they were built.

While I applaud the efforts of the negotiators and appreciate the improvements that they made over the original budget, I cannot support the final outcome of their effort. I cannot support it for the same reasons that I could not support the Budget Resolution Act and the Budget Reconciliation Act.

This budget does not cut spending enough. And, what spending does get cut, too often, in my opinion, spending that should not get cut. This budget raises too high and the wrong taxes at that.

It does not reduce excessive spending in defense, on agriculture and in other areas sufficiently.

It does not close unnecessary tax loopholes adequately.

It does not include waste and mismanagement as it should.

It does not distribute the burden of taxation as fairly as it should by asking more of millionaires and those that have great wealth and less of those in the middle class who already pay a great deal when compared to their income.

It does not fairly impose the burden of reduction on all States and regions of the country or recognize the economic conditions in States like Massachusetts.

It does not adequately reflect the special needs and living requirements of the elderly and our veterans.

It does not include adequate incentives for investment in small and growing businesses.

It authorizes, without hearings, without the input of local communities, and without debate in the Senate, a major new federalization of airport noise control. This Federal intrusion into a critical area of local control, without even hearing community concern, is unwise and unwarranted. I will continue to do all I can to defend the right of local citizens to protect their right to maintain what they consider to be a reasonable degree of peace and quiet.

As a result, it does not pass the test of fairness to the people of Massachusetts, their values and priorities that I must apply in reaching my decision on the reconciliation conference report. I will, therefore, vote against it.

I want to reduce the deficit. I have been willing, as I indicated earlier, to make the tough choices, but the reconciliation bill makes the wrong choices for Massachusetts and the Nation.

I understand how hard it is to produce a budget that we all can support.

I understand that our leaders had to fashion a proposal that they believed could pass and that the President could sign.

I commend them for the difficult and thankless task to which they have devoted themselves so generously.

And, I believe that they have produced a better budget than what was produced in the budget summit. For this I am very grateful. It is better. It is more progressive. It hits the elderly and the working families less severely than the original package.

For example, I am pleased that the original Medicare costs to our elderly have been reduced somewhat.

I am pleased that improvements in progressivity are included compared to the original budget agreement, and the reconciliation bill.

I am pleased that the gasoline tax, one of the regressive taxes included in the original package, was reduced.

I am pleased with the expansion of the earned income tax credit.

I am pleased with the child health care package.

And I am very pleased that the 2-cent tax on heating oil has been discarded.

It reauthorizes the Coastal Zone Management Act, a measure I authored which will provide essential additional protection to our environmentally threatened coastline. This legislation makes landmark changes to the way we manage our coasts to address the increasing pressures that these critical areas are under.

And there are other provisions that are improvements. I am pleased that I was able to help improve these provisions and this final product.

But, better just is not good enough. This reconciliation bill is seriously flawed.

For example, the tax increases proposed remain excessive and still too regressive. Excessive reliance on the gas tax, for instance, without significantly increasing taxes on millionaires, leaves us with a tax system that is not as fair as it could be or should be. After all, in the decade of the 1980's, the richest 1 percent of the Nation saw their average income increase 73.7 percent to $548,970 while the bottom 90 percent experienced a mere 5.9 percent increase in income to $29,334. It is time that those who reaped so much of the benefits of the 1980's give back a little more to those who gained so little.

The Medicare provisions would increase the deductible from $75 to $150 in 1991 and other costs to the elderly for this health care would also increase. The veterans cuts remain excessive and unfair.

The mandating of Medicare for State and local government employees hits Massachusetts governments especially hard, as it does their workers, it would cost our State and local governments $150 million each year and our workers a similar amount.

The Medicare provisions would add a significant burden to hospitals in my State already under serious financial stress and reduce resources to Massachusetts teaching hospitals substantially.

The tax incentives provided for oil and gas production are excessive and unnecessary, particularly in the period of high oil prices.

The failure of this budget to include a targeted incentive for investment in small, new ventures—the source of important job and income growth in the Nation—and desperately needed in Massachusetts is a major failing.

And these are only a few of the problems I could recite that make it impossible for me to support this measure.

During our debate on this bill in the Senate I also tried to make it better. I supported amendments to reduce or eliminate regressive gasoline taxes, to reduce or eliminate unfair Medicare cuts, and to pay for these cuts by increasing taxes on the wealthiest of our citizens. I voted to take Social Security off-budget to protect the integrity of the Trust Fund and reduce its use to artificially suggest that the Federal deficit is less than it really is. And I supported several other amendments intended to make this measure more fair. But despite these efforts, the Senate reconciliation bill, and now the conference report, simply do not meet the criteria that I must apply on behalf of the people of my State.

As the months of negotiations wind down and climax in the final vote on the budget reconciliation conference report, I realize that there is no longer anything I can do to change this package. As much as I would like to make the tax increases more progressive, increase the cuts to the Defense Department and agriculture subsidies, and reduce the burden being placed on the elderly and our veterans, I am a realist. I know that the die was cast with passage of the budget resolution.

Now, as we debate final passage, I can only praise the Members and their staff for having worked so hard to come up with this first multiyear deficit reduction package. And, unfortunately, I must also voice my opposition to this package because it is not fair the working people of Massachusetts.

Mr. CHAFEE. Mr. President, this year has been one of the most tumultuous in the 14 years I have been in the U.S. Senate.

Earlier this month, I told my colleagues in the Senate that I have never felt so pessimistic about our ability to keep our Nation strong and thriving. For most of this year, partisan politics, ironclad ideologies, and cynicism seemed to be the order of the day. The temptation of grandstanding on popular issues seemed so great that it seemed some were willing to risk the future of our Nation, of our children for short-term political gain.

This is not a game we are playing. The future of our country, the future of our children, is indeed at stake. The economy is in trouble. People cannot sell their homes. American businesses are losing ground in international markets. Our children are dropping out of high school, they have few skills and face a lifetime of dead end jobs. Our infant mortality rate is higher than that of any other industrialized nation.

We cannot hope to make any significant inroads in any of the myriad of problems facing us unless we reduce the deficit.

Happily, however, it appears that we are about to take a significant step toward resolving the fiscal crisis that has stymied the Congress for close to a year. The conference report on reconciliation represents the largest deficit reduction package ever considered by the Congress. The bill will decrease the deficit by $43.1 billion next year, and $492 billion over the next 5 years. It contains changes in the budget process which hopefully will ensure that we will live within our means in the future. It contains significant spending cuts as well as substantial revenue increases. Equally important, it begins to address some of our most troubling domestic problems such as child care, health benefits for poor children, and protections for low-income elderly individuals. The package also addresses the competitiveness of our businesses in international markets through the extension of certain expiring provisions in the Tax Code.

The budget reconciliation conference report contains in some areas and does not contain in other areas, many spending cuts and tax increases that I would not have chosen. In fact, it is probably fair to say that no Member of Congress, or the President would have embraced this package as his or her own. It is truly a compromise.

The revenue raising provisions included in the package represent one of the most significant areas of compromise. However, I am pleased that, taken as a whole, the tax provisions in this package are very progressive. This is illustrated by the fact that the top 5 percent, by income, of American taxpayers will pay more than 60 percent of the revenue raised by this bill.

We have heard many complaints about the fact that we are raising the gasoline tax in this bill. The increase in this legislation will bring the total Federl gasoline tax to 14 cents per gallon which is less than 20 percent of the amount of gasoline tax imposed by many of our trading partners. Even when Federal and State gasoline taxes are combined, the level of taxation in the United States is less than 50 percent of that imposed by other ocuntries.

This legislation will also increase the excise tax on cigarettes, a proposal that I and many other Members of this body have been advocating for a number of years. If I had had my way, I would have doubled the amount of the increase contained in this bill. Last year, I introduced legislation to increase the excise tax by 22 cents per pack.

We have placed a new floor on itemized deductions that will apply to only the top 2 or 3 percent, by income, of American taxpayers. Many of my colleagues have criticized this provision as hurting taxpayers who live in States with high income tax rates. I disagree with this analysis. This floor applies to all itemized deductions—except medical, casualty and theft losses, and investment interest which are already subject to limits. The new floor will apply in the same manner to all upper-income Americans, regardless of where they live.

As I mentioned earlier, the package also contains provisions which will help enhance the competitiveness of American business in international markets. Two of these provisions are critical to the continuation of technological innovation in this country: the research and experimentation [R&E] tax credit and the R&E allocation rules under section 861 of the Internal Revenue Code. The current regulations under section 861 create an incentive for compoanies to move their R&E offshore. If R&E expenses incurred in the United States must be allocated to foreign sales, U.S. companies may move the R&E offshore to take advantage of beneficial tax treatment in other countries.

It has been alleged that reform is some type of tax break. I assure you that is not the case. Section 861 is a penalty on domestic R&D because it requires U.S. R&D performers to engage in an accounting fiction that leads to double taxation and increases their worldwide tax liability. Removal of this penalty simply allows American companies to be treated like their counterparts all over the world.

The R&D tax credit is also very important to encourage American companies to increase the level of research that they are doing on new technologies and new products. I am dismayed that we have not been able to extend this provision for more than 15 months, since America needs a consistent and permanent R&E policy. Research projects often take years to complete and require businesses to make commitments of funds years in advance, therefore they need the assurance that a permanent R&E policy would provide.

Finally, there are also provisions to assist Americans in purchasing homes. In many States, such as Rhode Island, where housing is very expensive when compared to median incomes, we must provide tax incentives for programs that assist low-income Americans in acquiring their first home. We must reverse the declining home ownership trend that exists in this country.

The Mortgage Revenue Bond [MRB] Program authorizes States to issue tax-exempt mortgage revenue bonds to provide below market-rate financing for the purchase of homes by citizens in those States. This below market-rate financing allows many Americans to purchase a home, when they would not be able to buy a house with conventional financing.

In 1986, we adopted a State volume cap which placed a limit on the total amount of private-purpose, tax-exempt bonds that could be issued by

a State. The MRB program expands the type of private-purpose bonds that can be issued within a State's volume cap. I believe we should allow each State to utilize the volume cap to best meet the needs of its citizens.

The mortgage revenue bond program is a vital part of my State's housing program and its efforts to address the large affordability gap that exists in Rhode Island. The experiences of Rhode Island Housing, the manager of the MRB program in my State, illustrate the importance of this program to fulfilling the homeownership dreams of low-income Americans.

Approximately 80 percent of the families served by the MRB program in Rhode Island over the last 15 years would not have been able to qualify for a conventional mortgage. In the last year the Rhode Island MRB Program has provided mortgage financing for one-half of all of the homes purchased in Rhode Island.

The extension of this program through the end of 1991 will allow States such as Rhode Island to continue to assist young families who may not otherwise have been able to purchase a home. I am very glad that we have been able to maintain this tax exemption that is such an important part of our overall housing program.

Lastly, Mr. President, I would like to discuss the Medicare and Medicaid provisions included in the reconciliation bill before us. For the 6th year in a row, I was a member of the Health Subconference on Reconciliation. We were given the task of making substantial reductions in reimbursement for those who provide health care services to Medicare beneficiaries. This is not an easy task. Over the past 10 years, we have made significant reforms in the Medicare Program which have slowed the rate of growth in that program. In addition, we have restructured the program to ensure that the best health care policies are reflected. This is complicated process, and we are not always able to accomplish all of our goal.

On the whole, this year, I believe we have made changes which will reduce the cost of the program, while at the same time preserving the quality of health care provided to Medicare beneficiaries. However, I am worried about the impact of some of the reductions—particularly those dealing with reimbursement to hospitals.

This agreement makes reductions of $34 billion in payments to providers, $13.7 of which will come from hospitals. While those reductions were more than any of us really wanted to make, we were able to include protections for those which are most vulnerable, hospitals which serve a disproportionate share of low-income patients, and hospitals located in rural areas.

Another important provision in this package will result in increased reimbursement under Medicare for community health centers. This provision, which I sponsored, will allow these centers to serve more of our Nation's uninsured low-income individuals.

Ten million dollars in savings under this package will come from increased cost-sharing under Medicare. We increased the Medicare part B deductible from $75 to $100, but did not increase the part B premiums, nor was the 20-percent coinsurance for clinical lab services, contained in the original budget summit agreement, imposed.

In this agreement, we were able to include important provisions which will help mitigate the impact of part B deductible increases on low-income elderly individuals. Next year, the Medicaid Program will cover the cost of Medicare part B premiums, deductible, and coinsurance for all Medicare beneficiaries whose incomes are below 100 percent of the Federal poverty level. In addition, by 1995, Medicaid will cover the part B deductible for the elderly whose incomes are above 120 percent of poverty.

Also included is legislation, I sponsored with Senator BENTSEN, which will phase in Medicaid coverage for all children whose family income is below the poverty level. Twenty percent of our Nation's children are living in poverty. Through this provision we can assure that they have access to basic health care services.

I am also pleased that we were able to include some funds for services to individuals with disabilities and their families which will help them live, work and play in their own communities. This provision will help ensure that those with disabilities, and their families, will no longer be forced to choose institutional settings dued to the fact that no other services are available.

The bill also contains a controversial provision to save $1.9 billion in the Medicaid Program through rebates to the States for prescription drugs. I believe that this provision represents a responsible approach while still ensuring that Medicaid beneficiaries have access to state-of-the-art prescription drugs.

So, Mr. President, although this package may not contain all of the elements of deficit reduction I believe are important, and although it does not contain all of the spending provisions I believe are necessary to assist the children of this Nation, I believe it is the best we can do this year. I will support the package, and urge my colleagues to do likewise.

Mr. SIMPSON. Mr. President, before we get down to our last business here, and vote on this budget conference report, I believe it is appropriate to review a few points pertaining to this debate.

I understand that many of my colleagues are going to find it difficult—nay, for some impossible—to vote for this package. It is a tough package, and it is going to inflict some pain upon everyone. "Soaking the rich" has surely been a popular campaign slogan for the last few weeks. So we did that. That's in this package. If your income is above $200,000 your annual taxes are going to go up by over 6 percent—that's some easy math to do—that's at least $12,000 a year extra from you.

But we should also lay it on the line that "soaking the rich" wasn't a panacea; it has never been before and it won't be now. Those Americans who have joint income ranges between $30,000 and $40,000 a year will also see their taxes go up an average of 2 percent a year. That's a smaller amount—at least $600 a year. But those people will feel that, believe me. Is that taking care of the little guy?

So everyone here has to ask themselves: Am I willing to inflict this pain, even though well-distributed pain, on the citizens of this country? Consider this as you formulate your answer to that question. What is the alternative to deficit reduction? Right now it is the expiration of the continuing resolution—a Government shutdown. Let's not kid ourselves, that would be far more painful than anything ever contemplated on this floor, and there is no demagoguing our way around that one. Air traffic control needs to continue, roads need to be repaired, kids need to be vaccinated. Anyone who would put a stop to that in the name of trimming Government "pork" is truly "throwing out the baby with the bath water."

And there's another alternative—and I want people to understand this. The alternative to shutting the Government down is to let it run and to do nothing. Let's get this straight; that will not produce deficit reduction. Entitlements spending in this country has its increases already built into the law. That's why we have to make cuts. People phone us and say, "Why do we need this deficit agreement? Let's just not spend so much money." The answer is that not making cuts leaves those expenses to grow and swell. So let no one claim that voting against any and all deficit reduction packages or agreements is compatible with restraining spending. It isn't. The effect of that is only to keep that benefit machine churning away at top speed.

We have not solved the long-term problems facing our Federal budget, but we finally have made a start. Social Security spending is untouched. The 5.4-percent COLA is to be given to Social Security recipients and Federal retirees at the start of the new year, and it will cost this country, not $21 billion extra on top of this past year's spending. Anyone concerned about the integrity of the Social Security System has to be reassured by this package; we shielded all Social Security recipients, regardless of their net worth, from any pain in a package which has 491 billion dollars' worth of pain. We did that because everyone at that negotiating table bent over backward to assure that it was done.

The Medicare cuts, pure "Washingtonese" for limiting spending to a 10-

percent increase rather than an 11.6-percent increase—have been limited. We heeded the firestorm that broke out when a $3.60 premium increase was suggested. Now we will spend $42 billion less than planned, not less than now, but less than planned before our deficit reduction efforts. And $32 billion of that will come from providers of health care; the remaining $10 billion—2 percent of the total package—will come from beneficiaries.

Even limiting the hit to that degree is going to affect real people. Let me tell you: This Congress, or any Congress, would not inflict that difficulty upon people of sadism or self-service. We depend on those people for their support of us, for their votes, for our jobs. So why do it? Because the alternative is to inflict ever much more pain on them in the long run. We are able to see the pain that will be produced by this package. People have a much tougher time seeing or comprehending the way the mounting deficit hurts them, but they are feeling it already, and they will feel it more sharply unless we do this act.

So that is smack where we are, faced with an up or down vote on this maligned, unpopular package. On our right are sincere conservatives, on our left are sincere liberals. One side will tell you that they can't vote for the package because it includes tax increases. The other side will tell you they can't vote for it because of entitlement cuts—Medicare, agriculture. I don't question the sincerity of any person who is of those beliefs, but I do know that what they now suggest is politically impossible at this moment in time. Neither side has near enough support to get an "ideologically pure" package through the Congress. So we have to compromise. We have to compromise, or watch the terrible deficit grow. Watch it eat people up through inflation and interest rates. Watch the markets and savings be eroded away.

There has been much criticism of the package which is before us and I am very happy to criticize it, too. But let us talk about stark reality. Suppose you could convene the most responsible statesmen legislators in the land to solve a problem of this magnitude. Who would you want at that table? The President certainly. Our fine leaders, Senator GEORGE MITCHELL, Senator BOB DOLE, greatly respected legislators. The dean of legislators, Senator ROBERT C. BYRD. And Senator JIM SASSER, who has grown into a real team player. Senator LLOYD BENTSEN would be there, our universally respected colleague. The energetic and bright Senator BOB PACKWOOD. I would certainly want Senator PETE DOMENICI there.

If you run down that list, I think you will pretty much come up with the men who actually did the tough negotiating of this package. If there is a better package possible, I would surely like to know who we could have directed to produce it? This package is here because, while it is surely not the best of all worlds, it is the best of all possible political worlds. So let's stop "talking the talk" and let's "walk the walk." "Off the gangplank together, my hearties." I thank my colleagues for listening, and I yield the floor.

Mr. DOLE. Mr. President, I would like to engage the distinguished manager of the bill in a colloquy concerning the reduction in insured loans in the REA Telephone Program contained in section 1201 of the conference report on the bill, H.R. 5835. It is my understanding from a reading of that section of the bill that, as far as the Telephone Program is concerned, the reductions contemplated under section 1201 are reductions in the overall insured loan program levels for each year and do not authorize, in any way, the administrator to make reductions in individual loan applications or to require individual loan applicants to accept the privately funded guarantees under the new loan guarantee authority of section 314(d) of the Rural Electrification Act contained in section 1201. Is my understanding correct?

Mr. DOMENICI. The Senator's understanding is correct.

Mr. DOLE. In other words, these program reductions in the Insured Telephone Program do not contemplate any change in the manner in which the current Insured Telephone Loan Program is administered. And, further, that the assumption of a reduction in an insured loan contained in paragraph (3) of subsection (e) of the new section 314 of the Rural Electrification Act applies solely to the electric program? Are these interpretations correct?

Mr. DOMENICI. The Senator's interpretations are accurate. The provision referred to does not authorize any change in the way the current Insured Telephone Loan Program is administered.

Mr. GARN. Mr. President, we are in a terrible and embarrassing national predicament today. We have a huge national debt; an increasing Federal deficit; and the obvious inability to agree on a satisfactory solution to these problems. We are in this trouble for a number of reasons. The core of the problem may be genuine disagreement over how to solve our economic woes. Unfortunately, regardless of the philosophical differences, the result is that politics—the ugly name-calling and blame-laying—seems to be overshadowing the very somber issues before us.

I have been a good soldier—looking at the long-term objectives of reducing the deficit. I have supported the last two budgets because they promised to reduce the deficit by the targeted $500 billion. But I have supported them with strong reservations. I predicted 3 weeks ago that if Congress did not pass the first budget agreement, each subsequent agreement would be worse. President Bush was exactly right when he said that if we started picking the package apart, we would never be able to put it back together again. I believe we have reached that point now. Tonight's budget is the worst yet. I cannot, in good conscience, lend my support to it.

We have toyed with this budget for 9 months and now we have reached a point of complete mayhem. The Capitol Dome has become a clouded bell jar under which we are incapable of viewing what is in the best interests of our country. Everyone is picking at every proposal. The Democrats are accusing the Republicans of being the party of the rich. The Republicans are accusing the Democrats of being big spenders. The media is attacking the President for his lack of leadership. And in this environment, we have no direction, no consensus building, and no discussions on what truly needs to be done—which, simply put, is to reduce Government spending.

I do not like the choices placed before me today. On the one hand, I could stay in the ranks, and vote for a budget that goes against my philosophy and sound economic judgment. Or, on the other hand, I could vote what my conscience dictates and oppose raising taxes on a citizenry that needs relief. These choices are not easy. They are the kind every politician hates. However, it is the kind we are elected to make. My decision has to be—for the good of my constituents in Utah and for the good of the country—to say "no" to politics and vote against a bad bill.

The Federal Government has been on a continuous spending spree for far too long. Congress cannot resolve our deficit crisis unless hard choices are made, even if they hurt. But raising taxes is not the answer. Revenues have increased exponentially over the past decade, but Federal spending continues to out-pace the revenues. And every time taxes have been increased in the past, those taxes have gone to new spending, not to retiring our debt. We have a terrible record on being responsible with the taxpayers' money.

The other issue that continues to be raised is fairness and progressivity. "We aren't taxing the rich enough," some say. Yet statistics show that the top 25 percent of income earners pay 78 percent of all income taxes, while the lowest 50 percent of income earners pay only 5.5 percent of all income taxes. Indeed, it seems that the so-called wealthy are carrying their fair share of the tax burden.

I continue to maintain that across-the-board spending freezes or reductions—including cuts in our costly entitlement programs—is a more reasonable and fair approach to resolving the budget crisis. No one faction of our population should bear the deficit burden unfairly.

I don't believe this budget package is the solution to our Nation's economic problems. I don't like the fact that 40

percent of the deficit reduction is made up of new taxes and fees, giving Congress the opportunity to continue its irresponsible spending habits. I don't like the fact that we haven't addressed the ever-burgeoning entitlement programs with some method to control or limit their growth. I also don't like the fact that the discretionary spending cuts in the package come entirely from the defense budget, making up 37 percent of the targeted budget savings. Certainly there are other programs and accounts that can take reductions in their spending levels as well.

I have heard from many Utahns who are upset about the inability of Congress to deal effectively with the economic problems our country is facing. Many have expressed anger that Congress once again wants to raise taxes. Most have made suggestions of ways to reduce the deficit. Almost all have named a certain program that is important to them that shouldn't be cut. It has been a rare and lonely voice, however, who has said "I am willing to tighten my belt." Well, the time is here; we all must tighten our belts.

The last 3 weeks of this partisan bickering has angered the Nation, and rightfully so. I am angry, too. As Stephen Rosenfeld aptly stated in last week's Washington Post, our current budget crisis "is a crisis of governance and political values at the core expressed in a chronic inability to set priorities and make hard choices and an adolescent reluctance to accept the consequences of our acts." My dear colleagues, we are now facing the consequences of our inability to act. I simply cannot vote for a bill which will not attack the root cause of this problem: excessive Federal spending.

Mr. GRASSLEY. Mr. President, I must first preface my remarks by reminding my colleagues that the record of my service in the U.S. Senate bears out that time and time again I have put partisan politics aside to do what I sincerely believed has been good for the country, and good for my constituents.

I have put aside partisanship on matters of defense waste, farm problems, and budget matters. Moreover, as a recent example, I was the lone Republican to vote for the Democrats' budget plan adopted by the Senate Budget Committee this spring.

I am compelled to preface my remarks with this reminder because what I am about to say is harsh.

It may sound partisan. But it is true. Here we are, drawing to the end of the 101st Congress, war-weary over a long drawn out battle over this budget package, a package which is supposed to be about deficit reduction, but unfortunately has more to do with more taxes and more spending. The biggest tax increase in the history of our Nation.

Mr. President, I cannot remember a time when I have been more disappointed with the behavior of Congress. The 101st Congress, in my view, has been one where the majority party has been more interested in playing politics, than with meeting the serious challenges of governing.

The process leading to this budget process underscores my point.

The President submitted to Congress a budget last February. He could have simply walked away and let this Democrat controlled Congress develop its own plan, and let them alone make the tough decisions—let them alone take the political heat for unpopular decisions.

Politically, that would have been the smart thing for Republicans and for the President.

But we have a crisis at hand. We extended an olive branch and offered a budget summit to work this out together.

What did the President get for bending over backward, by submitting to Democrat demands that he alone first suggest taxes may be needed. Partisans set out about the country ridiculing the President for breaking his so-called read my lips, no new taxes campaign promise.

But the President and Republican leaders moved forward, trying to work out an agreement. The Democrats, unfortunately, seemed more intent on playing politics.

A leak from the summit, Republicans want to increase taxes for the poor, and decrease taxes for the rich.

Scolded by Democrat congressional leaders, yes, but during the next few days, Democrat Party Chairman Ron Brown ran around the country repeating and repeating the same attack.

Mr. President, this Democrat-controlled Congress does have it's privileged class, its untouchables. It is not farmers, it is not Medicare recipients, it is not the poor who must pay higher gas taxes.

I offered an amendment to make the wealthy shipowners and seafarers, some who make a mere $146,000 for 6 months work, pay their fair share in budget cuts through the Coast Guard user fee.

It was knocked out. Maritime unions are too important to the 101st Congress. Cargo preference, a backdoor, hidden, lucrative subsidy—subsidizing U.S. maritime to the tune of $415.000 per job per year—is off limits. This Democrat-controlled Congress which is responsible for a budget—not the President—gouged the farmers, gouged the poor consumers, and gouged the elderly, but not U.S. shipowners and seafarers who collect unpatriotic profit over 1,100 percent the going rate to ship Desert Shield cargoes.

Next Congress, Mr. President, next Congress. There will be fairness, there will be reform.

Mr. President, the Democrat contolled 101st Congress reminds me a lot of Nero, as Rome burned, he simply fiddled around.

Well, this country is in a crisis, a crisis created by Congress, too much spending, and it adds up to uncontrolled deficits that pile higher and higher our Nation's debt.

At a time when Americans are crying out for heroes, all this Democrat-controlled Congress has given them is a sad bunch of Nero's.

The time for playing politics with the lives of Americans, thank God, has come to an end. The time for fiddling is over.

But believe me, Mr. President, America burns, burns with anger.

And the Nero's will pay on November 6 if there is justice in this world.

Mr. D'AMATO. Mr. President, I rise in opposition to H.R. 5835, the Omnibus Budget Reconciliation Act of 1990. I am voting against this budget because it's time to stop business as usual. This is not an austerity budget. It does not cut spending. It does not even freeze spending. It continues to increase spending and raises taxes to pay for it. The claims that it will reduce the deficit by $500 billion over 5 years are completely unbelievable and unreliable.

This is not a deficit reduction package. This is a spending increase bill and a tax bill—a tax bill that will fall right in the laps of the working middle-class Americans. Make no mistake about it, this bill increases taxes by $20.6 billion next year and $146.6 billion over the next 5 years. Over the same 5 years spending will increase by a minimum of $245 billion.

We need to freeze spending if even just for 1 year. We need to hold the line. The fiscal year 1991 budget summit cap for domestic discretionary spending increased by $20 billion over fiscal year 1990. That's a 12-percent increase in domestic discretionary spending alone. That is plain wrong.

The increased taxes are not going to deficit reduction, they are going to finance an addiction—out of control spending. Congress is an addict, a spending addict. You don't give a drug addict more drugs, do you? Well, you don't give Congress more tax revenue either. They can only do one thing with it—spend it.

In addition, this bill increases the debt limit for a 5-year period by $1 trillion, 900 billion equaling a total debt limit of $5 trillion, 200 billion. This is inconceivable.

I support efforts to bring about economic stability and encourage growth in our Nation by reducing our Federal deficit but I will not accept an increase in taxes as a substitute for spending cuts. And, I certainly don't believe that raising revenue through a reduction in the value of deductions such as State and local deductibility will meet that goal. This deal is merely a foot in the door to future tax increases on the hard working middle class of this country.

Before we ask for any more money from the American public, Congress

should learn the lesson every American knows—in tough times, you tighten your belt. Because this bill ignores this lesson, I will vote against it.

FHA INSURANCE PROGRAM

Mr. D'AMATO. Mr. President, I rise today to discuss a section of the Budget Reconciliation Act with which the Senate Banking Committee was charged.

I'd particularly like to provide some insight into one of the areas the committee addressed: the FHA Insurance Program.

As far back as 1986 the Senate was getting an education on FHA. The insurance authority for FHA ran out five times in 6 months during that year. Each time the program expired there was a lag of a couple of days before FHA was reauthorized. It was also a time of extreme volatility in the fluctuation of interest rates for home mortgages. Phones in many of our offices on Capitol Hill rang off the hook from worried constituents who were afraid their FHA loan wouldn't close and they'd lose that starter home they'd wanted for so long.

In the 1987 Housing Act, the year I became ranking Republican on the Senate Housing Subcommittee, we finally made the FHA mortgage insurance authority a part of permanent law.

During 1988, we didn't do much on FHA. That year Congress was besieged by the S&L debacle and the expensive bailout legislation that was intended to solve the problem.

On September 19 of last year, we increased the FHA mortgage insurance limit for high-cost areas to $124,875 for a 1-year period.

In the reconciliation package and in the 1990 Housing bill, we made that $124,875 a part of permanent law.

And in 1989, something else became apparent; the FHA Mutual Mortgage Insurance fund might be in serious trouble. When a GAO/HUD report was released in the spring of 1990, it confirmed that the FHA fund was in disastrous financial shape, and drastic reforms were necessary if the fund was going to be able to continue to serve American home buyers.

I, for one, want to be completely sure that the FHA financial situation does not lead to another Federal bailout. The Government should not be put at risk again as it was with the S&L fiasco. Taxpayers should not be asked to bear the burden of cleaning up after someone else has been putting Federal insurance at risk.

People have argued that this close scrutiny of the FHA fund is an inside the beltway issue and people in other areas of the United States don't care.

Well, that's just not the case. The front page of last Sunday's Chicago Tribune real estate section addressed the problems FHA has been experiencing. FHA has helped millions of Americans get into a home, and we need to ensure that the fund will remain sound so that we have FHA in the future to help more Americans fulfill the American dream.

Over the last 6 months, a considerable group of people has been trying to devise ways to reform the FHA, by puting the fund back on track toward acturial soundness, and reducing FHA's drain on the Federal budget. The Senate response to FHA reform is included in the budget reconciliation package.

This FHA reform provison provides $2.5 billion in budget savings.

This FHA package requires a prospective buyer to include more of his/her own money upfront. Ths provision is very important to me. Everyone of us is more careful with something that we've worked hard for, and that we've put our own money into.

In current law, a buyer can finance up to 103 percent of the appraised value of his home. This is just plain ridiculous, and it is this very factor that has contributed to losses in the FHA Program.

In making reforms to the FHA Program, I want to make sure that if and when times get tough, people would have enough of a stake in their homes, that they would make a commitment to continue making the payment on their home.

While I, personally, would like an even tougher FHA reform package, I am satisfied with the reforms we've made to FHA, and I am happy that those reforms are able to add considerable savings to the budget. This package is clearly a step in the right direction.

Thank you, Mr. President.

Mr. GORE. Mr. President, I feel very honored to have been on the Senate floor the evening of October 18 to listen as the President pro tempore sought to educate all of the Senators on the true magnitude of the problems facing this country. Not just problems facing this body, or our children, but our children's children. As the President pro tempore so eloquently detailed, this country is experiencing an investment deficit of both physical and human capital.

We have spent numerous hours engaged in lengthy debate over how the U.S. Government, created by the will of the people, should spend the money of the people, in order to reduce the Federal deficit which was created by the U.S. Government. As the President pro tempore pointed out to my colleagues and I, the issue at hand is greater than the Federal deficit. It is about the people of this Nation whom we have neglected.

Interestingly, I recently read an article by David Alan Aschauer published in the Journal of Monetary Economics, March 1989, which outlined the very relationship between infrastructure investment and productivity which the President pro tempore spoke of on the Senate floor. Mr. Aschauer's article is based on an extensive study which considers Government spending variables and aggregate productivity in the private economy of the United States. Not surprisingly, the conclusions drawn by Mr. Aschauer echo the point made by Senator BYRD—nondefense public investment is one of the most influential factors in determining a Nation's rate of productivity growth.

Mr. President, alleviating the pain incurred by the huge Federal deficit will not cure the disease. Unless we address all of the symptoms—the dilapidated bridges, overcrowded airports, polluted waters and low math scores—the pain will only become worse.

I thank Senator BYRD for his sobering statement reminding us all of the real situation and referring us back to "the point of our departure from fiscal sanity." It is an honor to not only have personally heard the words of the distinguished Senator from West Virginia, but to serve with him. His dedication and service to the Senate and to our great Nation is truly an inspiration to us all. He symbolize the ideals and vision toward which we must all strive in order to create a future for this Nation that is as great as the foundations upon which it was built.

Mr. PELL. Mr. President, I am opposed to the budget plan before the Senate and will vote against it. Why. Because the people of my State, as the people of the United States oppose any increase in taxes at this time.

Earlier in this unprecedented budget formulation process, I voted against the budget resolution, and the Budget Reconciliation Act before it was sent to conference with the House of Representatives. Although the conference has improved the proposals in a number of ways, the objections I raised when I voted against it earlier remain.

It relies to much on increased taxes and fees, many of which bear most heavily on the average taxpayer.

It fails to do enough to control spending in defense.

It poses, I believe, a very real danger to our economy at a time when we are sliding toward a recession.

During consideration of the original bill in the Senate I voted to eliminate the increase in gasoline excise taxes at this time. I voted to reduce or eliminate the increased costs that would be imposed on the elderly in the Medicare Program. And I voted to shift the burden of taxes so that the well-off would carry their fair share.

The final bill before us now does impose higher gasoline taxes, it does impose some increased costs on the elderly through the Medicare Programs, and it does impose a significant tax increase on the average taxpayer, even though a larger tax increase has now been imposed on wealthier taxpayers.

In my view it is wrong to increase gasoline taxes at a time when gasoline prices have risen about 40 cents a gallon in the course of the past 10 weeks. To impose a tax increase at this

time on top of that price increase imposes a serious burden on working Americans who must drive to their jobs.

We should remember that the objectives of this budget plan—to reduce the deficit in 1991 by $40 billion and over 5 years by a total of $500 billion, were established in negotiations with the White House months ago. Since that time the evidence has grown steadily that our national economy is slowing and is in danger of sliding into an actual recession.

It is just plain bad economics to impose a heavy tax increase at a time when the economy is slowing down. Indeed, most economists agree that at a time like this, when in Rhode Island recession is a reality and there are fears of depression, it would be best to reduce taxes. With the size of our Federal deficit, we probably cannot reduce taxes, but we should certainly think twice about imposing heavy new tax burdens.

I would note also that the legislation imposes a luxury tax on both jewelry and on yachts. This luxury tax is intended as a counterpart to the higher excise taxes imposed on products such as cigarettes, beer and wine purchased by the average taxpayer. In reality, the luxury tax will raise little revenue. Any wealthy person can avoid the tax by simply buying something different, and the net result will be a serious blow to the jewelry and boat-building industries and their workers which are very important to the economy of Rhode Island.

For all of these reasons I am opposed to the budget plan presented to us in the Senate.

HIGHWAY TRUST FUND

Mr. BREAUX. Mr. President, section 11211(l) of this bill directs the Treasury to transfer from the highway trust fund amounts that are deposited into such fund attributable to gasoline taxes now being paid by users of small engine power equipment—at a rate of 11.5 cents—to the sport fish restoration account of the aquatic resources trust fund.

A GAO report issued in January 1988, titled "Resources Protection: Using Gasoline Taxes to Fund the Nongame Act" contains estimates of the annual nonbusiness motor fuel consumption by outdoor power equipment. The report contains two estimates, its own and one made by the Outdoor Power Equipment Institute [OPEI].

Is it your view that when the Secretary of the Treasury estimates the amount of annual nonbusiness motor fuel consumption by outdoor power equipment he will rely on available consumption data such as the OPEI estimate and the GAO estimate until such time as he can make a thorough and independent review?

Mr. BENTSEN. Yes, that is my view.

Mr. BREAUX. I thank the Senator.

MINIMUM PREMIUM PLANS

Mr. HEINZ. Mr. President, I would like to call to the attention of the Senator from Texas, the chairman of the Senate Finance Committee, an issue that we discussed last year in connection with the 1989 reconciliation conference report. It concerns the deductibility of certain reserves established in connection with group accident and health subject to minimum premium plan riders.

Under such riders, the employer is responsible to the insurer for finding claims up to a certain trigger-point amount on a cumulative monthly basis. These minimum premium riders do not change the risk assumed by the insurance company, and the insurer remains liable for all unpaid claims as of the date of termination of the rider. The insurance company reflects on its annual statement a liability for the future unpaid claims upon termination of the minimum premium rider in an amount essentially equal to the termination premiums.

The Internal Revenue Service has taken the position that an insurer in these circumstances is not entitled to a current deduction for additions to its reserve. At the same time, the IRS denied a current unpaid loss deduction on the ground that the insurer's liability does not arise until some future date, and at the same time denied a current unearned premium deduction on the ground that risks insured against have occurred during the policy year.

Last year a clarification was included as an amendment to our markup of the reconciliation bill, but as you recall, all of the so-called miscellaneous amendments were dropped on the Senate floor. However, given the short time remaining in this Congress, it does not appear that we will have an opportunity to address this issue in the Senate until next year.

Mr. Chairman, if the IRS does not decide that the insurer is allowed a current deduction under these circumstances, then I hope that we will act on the matter early next year and clarify that a current deduction is allowed in this case.

Mr. BENTSEN. I am familiar with the situation that the Senator describes. As the Senator states, clarification was included in our committee bill last year. Unfortunately, because of the parliamentary situation in which we have found ourselves this year and last, we have not had an opportunity to enact the amendment. I, too, certainly hope that the Internal Revenue Service will allow current deduction under this circumstance, making it unnecessary for us to enact a legislative clarification. If they do not, we will certainly look carefully at this issue again in the future.

Mr. MACK. Mr. President, does section 9304(2)(C) entitled specific exemptions exempt agreements between airport operators and citizens groups that are in effect before October 1, 1990.

Mr. FORD. Yes, that is one of the intents of this sections.

Mr. DOMENICI. Mr. President, whatever else we do in this reconciliation bill, we can be very pleased that this bill takes some important new strides to help low-income families; in particular, helping them with the high cost of raising their children.

This bill provides for more than $18 billion to be spent over the next 5 years specifically on programs to help low- to moderate-income families find and afford both child care and health care insurance.

This reconciliation bill combines funding reserved for the child care package passed in the Senate last year, and additional tax credit assistance for low-income families to which we agreed in the recent budget summit agreement.

The most significant provisions included provide for a generous expansion of the earned income tax credit [EITC] program. The EITC currently supplements, by about 14 percent, the earnings of low-income wage earners who have children.

The EITC is a refundable tax credit—enabling workers who have little or no tax liability to get a direct cash rebate to make sure they can take full advantage of the credit. I should also note workers can get this cash in advance, at the beginning of the year.

The EITC is a great way to help low-income families with the costs of raising their children. It sends assistance directly to those in need; to those who work hard and yet struggle to make a living and provide for their children.

At the same time the EITC keeps options open for parents, enabling them to address the particular needs their families and their children face.

First, this bill expands upon the basic EITC program by raising the income supplement, and providing an extra supplement for families with more than one dependent child. When fully phased-in, after 5 years, the maximum benefit for a one-child family could be over $1,560, and nearly $1,700 for larger families—that's about a $560 and $700 increase over current law, respectively.

This assistance is concentrated toward low-income families—particularly families with incomes up to $13,000 to $14,000. However, lower levels of assistance could reach families with earnings up to about $17,000-$18,000.

Second, the same families would get a similar, though smaller, credit for health insurance expenses of their children. Families could credit up to about $426 in health insurance expenses.

Third, families eligible for the EITC would also be eligible for another, smaller, supplement if any of their qualifying children are under age 1.

This would provide up to an additional $355.

In addition to these tax provisions, this reconciliation package also provides for grants to States to improve child care.

This package authorizes a new block grant to States enabling them to address comprehensive child care needs within their States. While helping States to address quality and availability problems, it also allows States to help low-income parents pay for services.

I have been opposed to using State grants to pay for child care services that parents themselves should be allowed to pay for with tax credits. It is very important to me that parents be given maximum choice in deciding how their children are cared for—and the assistance we give should not penalize parents who wish to stay at home and care for their own children.

However, the grant in this bill represents a very reasonable compromise. It includes a provision I had added to the original Senate child care bill requiring that parents assisted through this grant must be offered a certificate, or voucher, option. This provision will assure that they will have maximum choice within the grant program.

The principal child care problem in the America, and in New Mexico, is affordability. Many young families have very limited resources to care for their children, and they want to have a wide range of quality care options available to them.

The first bill I introduced in the 101st Congress proposed refundable tax credits that would give direct cash to parents for each of their young children.

Later, and together with many of my colleagues, I supported establishment of a limited grant program to help States with quality and availability problems.

I am pleased to see that what the Senate is doing in this reconciliation bill is to adopt the general design for Federal child care assistance that will do great service to the young families of this Nation, and of my State.

This is tremendously important to my State of New Mexico. In a State in which 1 in 5 children lives in poverty, this bill will give direct, flexible assistance to nearly 60 percent of New Mexican working families. This is in addition to the many other New Mexicans who are getting assistance already through the AFDC Program.

The EITC expansion in this bill will be of particular help to the many Hispanic families in New Mexico. Hispanic working families are twice as likely to be poor as non-Hispanic working families. In addition, those Hispanics who are poor are more likely to work, and will tend to have more children, than other groups of poor families. Thus, Hispanic working families with children qualify for the EITC in far larger percentages than anyone else.

As stated by a representative of the center on budget and policy priorities: "Adjusting the EITC to reflect family size would benefit Hispanics more than any other group in the Nation."

This proposal represents one of the most important assistance packages for the working poor families of America that we have done in years.

So while there may be much that Members do not like in this budget package, we can be very pleased that we are doing some great things here to help alleviate and prevent poverty; that we are doing much to help improve the long-term prospects of our children; and that we are doing much to strengthen the American family.

Mr. DOMENICI. Mr. President, one section of the reconciliation bill includes a $2.5 billion energy security package to encourage domestic production of oil and gas.

This is an important part of our deficit reduction effort because the price of oil has a direct impact on the economy. It affects potential growth, and inflation. It is a significant factor in both our federal and trade deficit. Oil is responsible for 28 percent of our trade deficit.

Mr. Alan Greenspan, the Federal Reserve Board's Chairman, told Congress on September 19, that a sustained oil price of $30 per barrel would knock one percentage point off America's GNP growth in 1991. He also testified that a $30 oil price would add 1½ percentage points to inflation in 1991.

One percent less growth in 1991 would increase the Federal deficit by $6 billion in the first year and continue to have a ripple effect for several years, adding as much as $79 billion over a 5-year period to our national debt.

If we experience $40 a barrel oil, it would increase inflation by 3 to 4 percent and cost us 2 percent in real growth.

This would constrain the Federal Reserve's freedom to ease interest rates as fears of inflation grow.

While this energy incentives package isn't a perfect offset for higher oil prices, and while it may not be significant enough in and of itself to influence world prices, it is a step in the right direction. The goal of this energy package of incentives is to revive American domestic production.

It has provisions to maintain stripper oil production, to enhance production from wells already drilled and includes some alternative minimum tax relief. It includes incentives for oil and for natural gas.

The package of incentives has the flexibility to be judiciously frugal under high price scenarios and prudently effective in low price scenarios.

I want to commend the chairman of the committee for his hard work on this package of incentives. The work on the energy security package is the result of several year's of effort. Great care was taken to make these incentives as targeted and efficient as possible.

The specific energy provisions include extending section 29, the nonconventional fuels credit, for 2 years. This production credit is available for coal seam—coal bed methane—geopressured brine, Devonian shale, biomass and certain other nonconventional fuels. Thirty states have nonconventional fuel production potential.

Coal bed methane and tights sands are important resources in New Mexico. In my State of New Mexico, the coalbed methane, alone, could double New Mexico's natural gas reserves.

It is a tremendous resource. The Gas Research Institute estimates that there is more than 50 trillion cubic feet in the San Juan Basin and a potential 18 trillion cubic feet in the Raton Basin of New Mexico and Colorado. Beyond the borders of New Mexico there are 400 trillion cubic feet of coalbed methane in the United States. Since natural gas is a clean, environmentally sound fuel, it is very significant that our energy security package includes an extension of this credit.

The nonconventional fuel credit also helps producers drilling for hard-to-get natural gas found in geological formations known as "tight sands."

In New Mexico we have an abundance of tight sands gas. Because of this tremendous resource I introduced the first bill last Congress to restore the tight sands credit when a Supreme Court decision rendered the credit inoperable. Earlier in this Congress, S. 425 and S. 2288 were introduced to restore the tight sands credit and to extend the credit.

DOE has estimated that a 2-year extension of the section 29, nonconventional fuels credit will add to our supply of natural gas by an estimated 98,000 barrel per day equivalent.

In general, a production credit is more efficient than a drilling credit because only actual production is given the tax benefit. The section 29 credit is a production credit that has a good track record of success. The section 29 credit has effectively stimulated production since its enactment in 1980. Nonconventional fuel production has increased from 40 bcf in 1979 to 1,400 bcf in 1989.

I am very pleased that the package also includes a 15 percent investment tax credit for enhanced oil recovery.

The United States has produced more oil than any other nation in history, but unless new technologies are rapidly installed, the United States will leave behind twice as much in known reservoirs as it has ever produced from them. We are leaving behind 70 percent of the oil when we drain proven fields using primary oil recovery techniques.

Of this massive 340-billion barrel resource, as much as 76 billion barrels

could be made economically producible using techologies that we have developed, or that could be developed, within the next decade.

Economic recovery of this oil presupposes use of existing wells, but the accelerating rate of well plugging could eliminate access to as much as two-thirds of the remaining oil by 1995.

EOR clearly has a significant but time-sensitive potential. To maximize it, it is essential to maintain the stripper well production. This package addresses both types of production.

Last year I introduced S. 828, the Enhanced Oil Recovery Tax Act. It was cosponsored by Senators BOREN, DOLE, NICKLES, WALLOP, JOHNSTON, BINGAMAN, GARN, MCCLURE, GRAMM, BUMPERS, COCHRAN, BURDICK, LOTT, HATCH, STEVENS, and CONRAD. This bill was the basis for the EOR provisions contained in this package.

I believe the Finance Committee should be commended for making the hard decisions necessary to go foward with this package.

Under the provisions included in the reconciliation bill, the 15-percent EOR credit would apply to tangible property which is an integral part of the project; intangible drilling and development costs and the cost of tertiary injectants.

The 15-percent investment tax credit is price sensitive and phases out when the price of oil is in the $28 to $34 range. During periods of high prices the incentive is not available. However, the incentive serves as a safety net if prices fall. Since EOR projects are long-term investments, this safety net is very important to encourage producers to financially commit to EOR projects. This is especially important in uncertain times with volatile oil prices such as we find ourselves now.

The EOR incentives promise to contribute significantly to energy security. During the life of the EOR projects made possible by the EOR credit, we can expect 6.9 billion barrels to domestic production that would not have been produced otherwise.

The cost to the Federal Treasury will be small—somewhere between 35 cents to $1 per barrel, depending on oil prices.

At the same time, because oil is such a significant part of our trade deficit, it has been estimated that for every $1 in tax incentives, the EOR oil produced will reduce our trade deficit by about $50.

This bill includes important incentives for strippers. It repeals the transfer rule for properties transferred after October 12, 1990. The transfer rule is a disincentive for independents to take over properties owned by integrated producers. It is a disincentive that denies an independent producer percentage depletion on properties that have changed ownership if the chain of title runs from an integrated producer to an independent producer. Since independents often have lower operating costs, it makes economic sense for an independent to develop or maintain a property. However, the current law the Tax Code was penalizing this economic fact of life. I am very pleased this bill repeals this disincentive.

The bill also increases the net income limitation from 50 to 100 percent. Increasing the income limitation to 100 percent would double the amount of percentage depletion that an independent could take on a property.

At the same time that we are maintaining the production we have, and are taking steps to encourage additional production from wells already drilled using enhanced oil recovery techniques, we also need to explore for new reserves.

The bill also provides some breathing space for producers who are in the alternative minimum tax situation.

Mr. President, I ask unanimous consent that a resolution passed by the New Mexico State Legislature supporting section 20; a telegram from Conley P. Smith supporting the package; a letter from Permanian Basin Petroleum Association, and a letter from the Independent Petroleum Association of New Mexico be printed in the RECORD.

And I also ask that several tables listing States where this production comes from be printed in the RECORD.

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

STATES AFFECTED BY OIL PRODUCTION INCENTIVES

ENHANCED OIL RECOVERY

Alabama, Alaska, Arkansas, California, Colorado, Florida, Illinois, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Montana, Nebraska, New Mexico, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Utah, West Virginia, and Wyoming.

STRIPPER WELLS

Alabama, Arizona, Arkansas, California, Colorado, Illinois, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Montana, Nebraska, New Mexico, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Utah, West Virginia, and Wyoming.

STATES AFFECTED BY NATURAL GAS PRODUCTION INCENTIVES

TIGHT SANDS FORMATION

Alabama, Alaska, Arkansas, Colorado, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Utah, Virginia, West Virginia, and Wyoming.

COAL SEAM METHANE GAS

Alabama, Alaska, Arizona, Arkansas, California, Colorado, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Mississippi, Montana, Nebraska, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Tennessee, Texas, Utah, Virginia, West Virginia, Washington, and Wyoming.

DEVONIAN SHALE

Illinois, Indiana, Kentucky, Michigan, New York, Ohio, Pennsylvania, and West Virginia.

HOUSE JOINT MEMORIAL 12

Whereas, the Gas Reserach Institute estimates there are 400 trillion cubic feet of coal-bed methane gas in the United States, including more than 50 trillion cubic feet in the San Juan Basin and a potential 18 trillion cubic feet in the Raton Basin of New Mexico and Colorado; and

Whereas, the number of gas wells drilled in northwestern New Mexico almost doubled last year, primarily as a result of federal tax incentives for coal-seam gas; and

Whereas, continued development of this resource could double New Mexico's total gas reserves, produce jobs and increase state royalty and tax revenues; and

Whereas, the federal tax credit for coal-seam gas under Section 29 of the Internal Revenue Code, unless extended by Congress, will not apply to gas from wells drilled after this year; and

Whereas, this tax credit is intended to encourage domestic producers to develop supplemental gas supplies in order to meet national energy needs; and

Whereas, this resource will help reduce this nation's dangerous reliance on imported oil and at the same time increase domestic supplies of clean-burning natural gas; and

Whereas, New Mexico clearly stands to benefit from extension of the credit; and

Whereas, Congressional action is urgently needed so that producers will be able to continue development of coal-seam wells in the San Juan Basin and be able to open the Raton Basin for inaugural gas production:

Now, therefore, be it resolved by the legislature of the State of New Mexico that it respectfully requests the United States Congress to act quickly to extend the Internal Revenue Code nonconventional fuels tax credit; and

Be it further resolved that copies of this memorial be transmitted to the Honorable Pete Domenici and the Honorable Jeff Bingaman, United States Senators; and the Honorable Steve Schiff, the Honorable Joe Skeen and the Honorable Bill Richardson, United States Representatives.

WASHINGTON, DC,
October 22, 1990.

Senator PETE DOMENICI,
Senate Office Building,
Washington, DC.

DEAR SENATOR: Meeting today in Dallas, TX, the Tax Commitee of the Independent Petroleum Association of America has reviewed the package of energy tax incentives adopted last week by the U.S. Senate.

The single most important provision in that package, one which affects virtually every member of the IPAA, is the reduction of the existing tax penalties on drilling investments under the alternative minimum tax.

Of all the provisions in the Senate package, the reduction of AMT preferences is IPAA top priority and will result in the greatest economic incentive for new domestic drilling.

As negotiations on the 1991 budget continue, we urge you to retain the Senate provisions reducing amount of penalties on new drilling investments in the final budget package.

CONLEY R. SMITH,
Chairman, IPAA Tax Committee.

PERMIAN BASIN
PETROLEUM ASSOCIATION,
Midland, TX, July 12, 1989.

Hon. PETE V. DOMENICI,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR DOMENICI: We appreciate your co-sponsorship to the Enhanced Oil Recovery Act (S. 828). Just recently, the Texas Legislature passed H.B. 428 which reduces certain crude oil production taxes by fifty percent over a ten year production period for qualifying enhanced recovery projects (attached). While we do not believe this will be a large boost to Enhanced Recovery investments (EOR) or will it have a major impact on Independents, it is another upward step toward reducing our alarming dependence for foreign crude oil by maintaining production for "in place" oil.

Along with our support of S. 828, we highly endorse those marginal production initiatives as a companion proposal as recommended by the Independent Petroleum Association of America: they are:

Eliminate percentage depletion as a perference item for marginal production.

Raise the property net income limitation from 50% to 100%.

Repeal the 65% taxpayer income limitation with respect to percentage depletion on marginal production.

Repeal the transfer rule.

Repeal the transfer rule.

Remove marginal production from the 1.000 b/d limitation.

We congratulate you in your efforts to enhance an ailing industry. We also encourage you to use your influence for getting the Department of Energy to take action on the various industry incentives they are preaching to the nation as hopeful cures to the domestic petroleum industries ill health. While our assoication members are extremely tolerant and patient, its time to stop talking and start doing!

Sincerely,

HARRY A. SPANNAUS,
Executive Vice President.

INDEPENDENT PETROLEUM
ASSOCIATION OF NEW MEXICO,
Santa Fe, NM, August 1, 1989.

Hon. PETE V. DOMENICI,
Washington, DC.

DEAR SENATOR DOMENICI: Members of the Independent Petroleum Association of New Mexico have reviewed Senate Bill 828, Enhanced Oil Recovery Tax Act, and strongly endorse it. We believe that the bill is sufficient in its present form and does not require amendments.

New Mexico currently has 14.7 thousand stripper wells out of 17.2 thousand oil wells. Of that number 5.2 thousand are classified as inactive. This is greatly attributable to economic circumstances.

Today's circumstance is gravely unfortunate because it invites premature abandonment of marginal wells and does not invite innovation for secondary and tertiary recovery methods.

Enhanced recovery is out of the question for small operators at today's oil prices. We believe that an incentive for enhanced oil recovery as spelled out in SB 828 will improve the lead time for secondary and tertiary recovery methods when prices improve. Congress has recognized the importance of providing incentives in order to recover reserves from difficult formations. Section 107 pricing under the Natural Gas Policy Act of 1978 is an excellent case in point. It should be noted that under SB 828 the potential for recovering crude oil from "tight formations" can greatly improve the nation's reserves as was the case with natural gas.

In New Mexico 85% of our oil wells are stipper wells and 3.9 thousand are injection wells. Our State is gravely concerned about premature abandonment of oil wells due to low prices. The oil and gas industry is the second largest revenue source and is still the single largest industrial contributor of revenue to State and local governments. In 1988 total oil and gas revenues and permanent fund earnings from funds established by oil and gas dollars totaled $736.4 million. This is approximately one-half of the State's budget.

Because of the State's heavy dependence on oil and gas production for revenue, our Legislature has shown and continues to be interested in enhanced recovery incentives. Senate Bill 828 may well serve as a model to producing states like New Mexico that are interested in providing incentives for enhanced ercovery at the state level. The overall impact of SB 826 will be the positive signal it sends to the domestic oil industry. Since 1973 every president and every Session of Congress has paid lip service to "energy self sufficiency". They have both expressed grave concern about strategic preparedness being jeopardized by importing such a large percentage of foreign oil from unreliable sources. SB 826 is more than just words, it demonstrates a real commitment toward improving the nation's energy producing capability.

We thank you for the opportunity to comment on SB 828 and we wish you success in its passage.

Sincerely,

TOMMY ROBERTS.

REVENUE SHORTFALL

Mr. DOMENICI. Mr. President, section 13111 of this bill adds a new title VI to the Congressional Budget Act. Section 604 of this new title provides a new fast-track reconciliation procedure in the House of Representatives to allow for the consideration of reconciliation bills to meet revenue shortfalls. The conference report does not apply this procedure to the Senate.

I wonder if the distinguished chairman of the Budget Committee could respond to a question on the application of section 310 of the Budget Act to a bill passed by the House under this procedure?

If the House passed a measure under this procedure that was deemed to be a reconciliation bill, would all the provisions of the Budget Act regarding reconciliation legislation, including subsection 310(g) of the Budget Act and the Byrd rule, apply in the Senate?

Mr. SASSER. I would be happy to respond to the distinguished ranking member of the Budget Committee.

Let me start by saying that the conferees on the budget process for the Senate, as the Senator of New Mexico well knows, did not view this special procedure to be of much merit. After all, procedures already exist under section 304 of the Congressional Budget Act whereby Congress may revise budget resolutions and create new reconciliation instructions calling for new deficit reduction. That is one of many reasons why we did not seek to have a similar provision applied to the Senate. But the conferees on the part of the House insisted on having this rule in the House, so that is why the provision is there.

So what would happen if the House of Representatives passed a concurrent resolution under this section? At the outset we have to acknowledge that it is unclear whether the Presiding Officer would treat it like a budget resolution in the Senate. As it deals with matter that would normally be addressed in budget resolutions, I would expect that the Presiding Officer would refer it to the Budget Committee.

If the Budget Committee reported out the concurrent resolution under this section, it is unclear whether the Presiding Officer would view it as being constrained by the 50-hour or 15-hour time limits for budget resolutions.

If both Houses passed the resolution, however, and a bill in the nature of a reconciliation bill resulted, the next question would be whether the Senate would give it all the protections that normally go to a reconciliation bill.

As I saw it, the conferees on the budget process intended that all the points of order and restrictions that ordinarily apply to reconciliation bills would apply in this case as well. In particular, the points of order against putting Social Security changes and other extraneous matter in reconciliation should apply in this case. That is, the conferees on the part of the Senate fully expected that the provisions of section 310(g) of the Congressional Budget Act and of the Byrd rule should apply to this reconciliation bill, as well.

So, in sum, we are not sure that the product of this new procedure should be put on a fast track if it comes over here to the Senate. But if it is put on such a fast track, then it was the intent of the conferees that it would not provide a fast track for extraneous matter.

Mr. DASCHLE. Mr. President, today we finally reach the point that will hopefully mark the end of a long, tortuous road to enactment of a meaningful deficit reduction package.

The trip has been extremely frustrating, for the administration officials and congressional leaders who have been closest to the budget negotiations; for the Members of Congress who want real deficit reduction and a balanced package of spending cuts and revenue increases; and for the American people who ask only that the Government get its fiscal house in order and enact a meaningful and fair budget package. It has been marked by strong philosophical differences about how the burden of deficit reduction should be apportioned among the American public. An imperfect process has yielded an imperfect yet essential budget agreement.

From day one my personal bottom line on this deficit reduction fight has remained the same. The Government

of the United States must be forced to cut at least $500 billion from its budget over the next 5 years. And the cuts made to achieve this goal are absolutely unacceptable unless they include significant contributions from the very richest Americans whose bank accounts have been so fattened by the policies of the last 10 years.

There have been hundreds of claims and counterclaims about who is doing what to whom in this budget battle. But there is one very simple fact. If the deficit reduction plan presented to the Congress by President Bush had included even the most modest request for sacrifices by the rich—anything at all—there would have been a budget plan adopted months ago, and the budget crisis we hopefully and very belatedly end today would never have happened.

Let me spell the situation out. Ten years ago millionaires were taxed at a 70-percent rate. Today they are taxed at a 28-percent rate. President Bush shut down our Government for 3 days because he flatly refused to raise the top rate back to 33 percent. Now, after months of battling, he finally consents to a 31-percent rate, but will not accept a surtax on millionaires.

And what is the price the President asked us to pay for his all-out, scorched-earth protection of the right of the rich to pay a 28-percent tax?

He asks for a $60 billion cut in Medicare. He asks for a 12-cent per gallon increase in the gas tax. He asks for huge cuts in farm income and a grab bag of taxes on the products ordinary Americans buy every day—all so the wealthy would have to give nothing. In fact, in his original proposal, he actually sought a new multi-billion-dollar capital gains tax loophole, 83 percent of which would have gone to people earning over $100,000 per year.

I will never support that sort of policy. It is fundamentally and disastrously unfair. It contradicts everything I believe in and everything I have worked for during my tenure in the Congress.

I know the Nation cannot afford much more of the gridlock that has been produced by this battle over fairness between the President and Congress. No matter how strongly I personally may feel, the final choice had to be between compromise and a complete collapse of our Government.

That is why, to keep the deficit-cutting process going, I reluctantly cast votes against amendments I have fought for in the past. For example, when the budget bill faced certain defeat in the Senate if amendments I strongly favored, that would have cut the gas tax increase and restored Medicare cuts, had been adopted, I voted against those amendments so that the legislation could proceed to a joint House/Senate conference committee which every Senator knew would, and which in fact did, make the final deficit reduction package stronger and fairer.

To conclude this lengthy and contentious budget process, I will today cast my vote, with some disappointment, for a bill that is much better than the President's initial plan, much better than the Senate bill of last week, but not nearly as good as what this Congress could and would have produced had the President of the United States not opposed fairness every step of the way.

The bottom line, though, remains for me where it has always been.

Asking the wealthy to give back just a little of what they have been handed by the administrations of Ronald Reagan and George Bush is fair.

Asking ordinary families, who have been handed nothing over the past 10 years except bills, to bear a 12-cent per gallon increase in the gasoline tax and take a $60 billion Medicare cut is not fair.

My votes for South Dakota have been designed to chop just as many pennies as I possibly can off that gas tax, to restore just as much of those Medicare and farm income cuts as is humanly possible and to pay for these things by cutting unnecessary spending like foreign military aid and asking the wealthy to bear their fair share of the deficit reduction burden.

In the budget bill before us today we have moved the gas tax increase down from the President's 12 cents per gallon to 5 cents per gallon phased-in over 5 years. We have slimmed Medicare reductions from the President's $60 billion to $44 billion, most of which will be borne by physicians and hospitals rather than individual seniors. And we have moved the tax rate for the very rich from his 28 percent to a slightly fairer 31 percent and reduced tax deductions for individuals with adjusted gross incomes higher than $100,000 a year.

It is much better than what we had and better than an impasse that would shut down Government services for the American people. However, if the voters of this Nation speak as loudly as I believe they will on election day and send a message to the President about how they feel about fairness, then this Congress will be able to do better and be fairer next year. That, I can assure you, is something this Senator looks forward to very much indeed.

THE VETERANS PORTION OF THE PROPOSED CONFERENCE AGREEMENT ON THE BUDGET RECONCILIATION BILL

Mr. MURKOWSKI. Mr. President, as ranking Republican on the Veterans' Affairs Committee I rise to speak about the veterans portion of the conference agreement on the reconciliation bill.

SENATE ACTION

On October 12 the Senate Veterans' Affairs Committee met to approve legislation to meet our obligations under the budget agreement. Under this agreement, our committee was required to recommend legislation which would save some $620 million in the first year and $3.4 billion over 5 years.

In order to ensure that our committee would not achieve more savings than required under the budget agreement, it was proposed that the committee limit the time period which certain provisions would remain in effect. That is, there were sunset dates for many of the provisions.

For example, it was proposed that VA's authority to bill health insurance companies for the cost of treating a nonservice-connected disability of a service connected veteran would expire on September 30, 1991.

After lengthy debate, the committee voted 6 to 5 in favor of my amendment to remove from the bill clauses which would have set expiration—or sunset—dates for 7 of the provisions in the reconciliation package. Our committee voted to make the legislative changes permanent. As a result of this action, our committee exceeded our mandated savings level by $2.7 billion over 5 years.

Let me explain why I opposed the idea of sunsetting.

Sunsets would enable the Veterans Committee to reauthorize the programs or authorities when they expire. Why would we do that? Well, it would permit us to use the so-called savings scored for the extension for

First, future reconciliation requirements; or

Second, to combine with legislation establishing new programs and entitlements in such a way as to make the legislation budget neutral.

Does this not defeat the purpose of deficit reduction legislation?

I know that sunsets are not technically a violation of the budget agreement. However, it simply seems inconsistent with the agreement and the desire of this body to reduce the Federal deficit.

HOUSE ACTION

The House, however, approved reconciliation language which included sunsetting 7 new authorities or programs.

The final reconciliation bill includes the House provision—with one modification to extend by 1 year the third party reimbursement authority—relating to sunsetting.

I sincerely regret that the House refused to accept the Senate position which was no sunsets!

CONCLUSION

My conclusion is that we are required to produce legislation to reduce the burden of debt and deficit borne by the American people. Instead, what we are doing is playing games to ensure that starting in fiscal 1992 we have what amounts to a slush fund which would allow creation of new and expensive entitlements.

We demean ourselves and the budget process when we establish a mechanism to create future savings by

continuing business as usual and extending a sunset date.

Last year we took a major step toward budgetary integrity when we terminated the game of temporarily extending the home loan origination fee and temorarily exending provisions concerning vendee loans sales with and without recourse to the Government.

I have to see us establish the basis for returning to similar practices.

I strongly believe that we should be honest with ourselves, honest with the veterans of our Nation, and honest with the taxpayers.

It seems to me that there is nothing wrong with achieving more savings than is required. This effort would help to further reduce our deficit. A sound economy which results from getting our fiscal house in order certainly helps our Nation's veterans.

Veterans do not need to be told about the need for all of us to sacrifice in times of crisis—veterans have always been there when this country has asked them to contribute.

My friends, the fiscal crisis is now.

Thank you, Mr. President.

Mr. HEFLIN. Mr. President, the budget reductions that are before us will have a devastating effect on U.S. agriculture. While Congress is debating massive cuts in farm programs, our U.S. trade negotiations are proposing across-the-board reductions in world agricultural supports. In other words, Congress and the administration are unilaterally disarming domestic farm programs without concomitant reductions from our foreign competitors. This stragegy will ultimately raise food costs and increase our dependence on foreign food and fiber.

There are three principal ways this bill results in savings. First of all, our program crop farmers will be required to adopt the triple-base concept. This concept results in a savings because it will, in affect, reduce by 15 percent the number of acres which is eligible for target prices. This reduction will increase price instability and reduce farm income.

The second way this bill saves money is by recalculating the average market price for program crops. Presently, the market price is calculated on a 5-month moving average. This bill will calculate the market price on a 12-month moving average. The net result is a smaller deficiency payment for the family farmer.

Lastly, this bill taxes farmers who grow commodities like peanuts, tobacco, and sugar. Because these crops result in no cost to the U.S. taxpayer, the conference committee decided that these commodities should actually be required to contribute money to the U.S. Treasury. This concept is referred to as a marketing access fee. The result, however, is nothing more than a tax to grow peanuts, tobacco, and sugarcane. Once again the administration has been successful in its attempts to drive the family farmer from the farm through the misuse of U.S. tax policy. Under this proposal my peanut farmers are having to pay for the more expensive farm programs such as wheat and corn. The administration knows, as David Stockman so eloquently stated, the way to dismantle the farm programs is to pit one commodity a against another. In conclusion this idea of a marketing fee is inherently unfair to the no cost programs.

Mr. President, this bill amounts to 25 percent reduction in farm support. Our farm families are taking a disproportionate cut in income relative to society as a whole. As a Senator from a rural State, this bill as it relates to farming is a disaster.

Mr. KASTEN. Mr. President, this tax-and-spend budget is bad news for the American economy. And it will be a disaster for Wisconsin families.

I intend to vote no on this package.

This budget will raise total taxes and fees by at least $170 billion over 5 years. This is the largest tax increase in U.S. history.

It will raise income tax rates, gasoline taxes, beer taxes, payroll taxes, and business taxes.

It will raise taxes on low- and middle-income families.

It will reduce incentives for charitable giving.

It will increase the complexity of the Tax Code, creating new jobs for tax accountants, financial planners, and tax lawyers.

It will hurt families with children by phasing out the personal and dependency exemptions for certain taxpayers. The more children in the family, the higher the marginal tax rate.

It will punish self-employed individuals by increasing their payroll taxes by as much as 150 percent.

It will weaken the competitiveness of U.S. businesses in world markets.

It will kill the economic expansion of the 1980's, which created 21 million new jobs and raised family incomes.

It will give the tax loophole lobby a new lease on life.

But it will not reduce the Federal budget deficit.

I believe this budget is based on dishonest economic assumptions. Who really believes that oil prices will fall more than 40 percent next year? That GNP growth will triple by 1993? That interest rates will be down in the 5-percent range by 1992?

The assumptions are false. And we all know it. But—it seems—Congress does not care.

And on the basis of these assumptions, we have reared up an equally fraudulent economic skyscraper—a huge white elephant that will raise taxes on America without producing the promised deficit savings of $40 billion next year and $500 billion over the next 5 years.

We ought to take these estimated spending cuts and tax increases, and frame them on the wall. And I would invite my colleagues to join me here 1 year from today, and look at that frame again.

The tax increases will be there. The spending cuts will not.

And we'll be talking about even more tax increases to dig us out of the deeper hole that we are digging right now.

History shows that every $1 in higher taxes leads to $1.52 in higher spending.

Mr. President, I challenge my colleauges to tell me where—besides defense spending—any cuts at all are included in the current package. Under the budget resolution nondefense spending is slated to increase by almost $70 billion.

That's the kind of deficit reduction we are offering the American people.

And we continue to add to the budget over the whole 5 years of the budget package—a total of $245 billion in overall spending increases over 5 years.

In this regard, I ask unanimous consent that an article that appeared in the October 23 issue of the Wall Street Journal be printed at this point in the RECORD:

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

[From the Wall Street Journal, Oct. 23, 1990]

THE DEFICIT SHELL

Let's say you represent the American public, and you walk up to a folding table with three shells on it. A member of the Washington establishment—maybe Lloyd Bentsen or Dick Darman—is running the three-shell table. He tells you that the inside of one shell is labeled "Spending," another is labeled "Tax Payments," the third is "The Deficit." You stand there agog while he whips the shells of federal finance around the table.

CONGRESSIONAL BUDGET "CONTROL"

[In billions]

	Fiscal 1990	Proposed fiscal 1991	Percent change 1990–91
National defense	$299.9	$297	−0.9
Science, space, technology	14.2	15.2	7.0
Energy	3.3	4.0	21.2
Natural resources/environment	17.8	18.9	6.2
Agriculture	12.5	14.1	12.8
Commerce/housing credit	75.7	87.0	15.0
Transportation	29.5	30.7	4.1
Community/regional development	8.3	8.6	3.6
Education	38.3	41.8	9.1
Health	58.2	65.5	12.5
Medicare	96.9	104.9	8.3
Income security	148.5	160.5	8.1
Social Security	248.7	266.3	7.1
Veterans benefits/services	29.4	31.7	7.8
Administration of Justice	10.5	12.3	17.1
General government	10.6	11.7	10.4

Source: Compiled by Heritage Foundation from figures in Congressional Budget Resolution.

Well, we've all played this game many times before so we know who wins. The only shell Washington ever turns over for the American public to see is the one labeled "The Deficit." Somehow, Spending and Tax Payments fade away into those quick hands. Has anyone ever wondered why the game's set up this way?

After all, the deficit number is merely the inert difference between two more interesting any active quantities—taxes and spending.

Taxes are interesting, because the President and Senate Democrats say Washington needs so much more of them. The country hasn't sent them enough, or as it is sometimes said, "The American people aren't willing to pay for the level of public services they demand." Let's look at the tax receipts the "unwilling" public has sent Congress and the President recently, in current dollars: 1986: $769 billion, 1987: $854 billion, 1988: $909 billion, 1989: $991 billion, 1990 (est.): $1.1 trillion.

We don't recall anyone in Washington—say, the media folks who keep holding up the deficit shell on those Sunday-morning talk shows—ever explaining why it is that Mr. Bush and Congress, after receiving $4.6 trillion from their constituents since 1986, now need more by way of gasoline taxes, beer taxes and higher income taxes.

Now, if someone will just grab hold of Senator Byrd's hands for a moment at the appropriations table, we'll turn over the Spending shell to see what's inside. The table depicted here shows last year's actual spending and the proposed 1991 spending authorized in the Grand Compromise budget resolution that was finally voted by Congress two weeks ago. Spending is going up. Only defense is going down.

The appropriations committees are now producing their own spending bills, which may diverge some from these numbers. But press reports the past few days indicate that the appropriators are pushing the spending levels higher, paying for the increases with new taxes and fees.

But the budget negotiators say spending is being "cut." Ah yes, the Spending Reduction shell.

Under the budget-reform law passed in 1974, Congress doesn't touch a new fiscal year's budget until nearly all spending levels in it are automatically raised by some percentage tied to inflation and other factors. The public naturally thinks Congress is working on the levels in last year's budget, since that's the way people think about cutbacks in the real world. But Congress's budget law has already jacked up spending to a higher level. So any "cut" really comes out of this automatically jacked-up level. The result is that spending usually ends up higher than it was the year before.

This is why tax payments, even when they hit $900 billion, have never been able to catch up with the spending stream. And why all the shells are labeled Deficit. If Americans were ever given a comprehensible look at the spending and tax accounts, they would call for a policeman.

The tax-and-spend Congress has redefined the meaning of the word "cut." In Wisconsin, a spending cut means spending less. Here on the Senate floor, if spending does not increase quite as fast as the politicians had planned, they call that a spending cut.

Mr. President, when we find ourselves back here next year, in an even worse economic crisis than we are in today, I would hope that the tax-and-spend crowd would then, finally, start listening to the American people. Because the people have known all along that tax increases hurt the economy and only add to Congress' budget deficit.

We simply don't need new taxes. From 1986 to 1990, tax receipts have risen from $769 billion to $1.1 trillion. Tax receipts are already projected to rise by $397.8 billion between 1990 and 1995. This flood of new revenue that the American people will send to Washington—an average of $80 billion each year—is more than enough to fund the Nation's true priorities and trim the budget deficit.

Instead of raising taxes, we ought to freeze Federal spending—and spend no more this fiscal year than we spent in the previous fiscal year.

Let me repeat: We don't need to cut spending; we just need to spend no more next year than this year. Freezing total outlays at 1990 levels would cut the deficit by $70 to $90 billion next year. Even if we allow spending to grow by 4 percent, the deficit would decline by $30 billion next year. Under a $40 billion across-the-board sequester, total Federal spending would still rise by $75 billion next year.

All of these alternatives would have resulted in real deficit reduction without raising taxes.

In addition, we should give the President a line-item veto and enact a balanced budget amendment to the Constitution.

Perhaps most important of all, we need to get America moving again by enacting growth incentives like a revenue-winning cut in the capital gains tax to stimulate investment—and a reduction in the payroll tax to leave working families with more of their own hard-earned wages.

Mr. President, this tax increase plan will siphon $170 billion from the private economy to refund Washington's bureaucracy. It would bring back the stagflation and declining living standards of the 1970's. It will mean less for the family budget and more for the Federal budget.

President Bush has bargained in good faith. He wanted spending restraint, real budget process reforms and growth incentives. Unfortunately, President Bush found it virtually impossible to pass a no-new-taxes budget when the Democrats control both Houses of Congress.

The Democrats desperately want to raise taxes so that they can spend more money. They say they want to target the wealthy. The only problem is—there aren't enough of them.

The Democrats had no choice but to raise taxes on lower- and middle-income families because that's where the real money is. That's why their original tax plan suspended inflation indexing of the income tax brackets which would have cost middle-class families as much as $313 a year.

I vote for America's economic future. And that means I vote against this bill.

Mr. BOREN. Mr. President, I rise to ask the chairman of the Finance Committee a question regarding the provision in the budget reconciliation bill which extends the tax credit for producing fuel from a nonconventional source.

As the chairman knows, the credit is available for the production and sale of fuels from a number of sources which are named in the Internal Revenue Code, including oil produced from shale and tar sands. The Code, however, does not define the term "tar sands."

Shortly after the credit first was enacted, the Department of Energy held a conference to develop a generally applicable definition of tar sands. The definition which resulted from that conference was a substance based definition of tar sands, which definition has been accepted by and adopted into the United States Code and regulations used by all relevant agencies of our Government except the Internal Revenue Service. In my view, this substance based definition is consistent with the original intent of the nonconventional fuels credit.

Prior to 1989, taxpayers relied on the definition of tar sands developed by the DOE. In 1989 the Service issued a technical advice memorandum suggesting a definition of tar sands originating from a Federal Energy Administration ruling which was promulgated in 1976 (ruling 1976-4). As opposed to the substance based definition, the Service advocates a process based definition. Under that definition, it appears that no existing U.S. commercial production would qualify for the credit.

It had been my hope that we could have clarified this issue during this session of Congress, however the crisis involving the budget and the requirement to pass a budget agreement in such a short period of time have interfered with the committee's review of this issue.

Mr. Chairman, is it correct that no interference should be drawn regarding the proper definition of the term "tar sands" in extending the section 29 credit this year without statutorily defining the term?

Mr. BENTSEN. The gentleman from Oklahoma is correct. The committee did not have an opportunity to consider this issue one way or another. Therefore, it is appropriate that no inference as to the correct definition of "tar sands" should be drawn from the committee's failure to take action on this question.

Mr. FORD. Mr. President, I urge my colleagues to pass this reconciliation measure which includes a very important aviation package. After more than a week of difficult negotiations, the conference has produced legislation which will establish a national noise policy and provide for the phase-out by the end of this century of the noisy stage 2 aircraft. The bill also prohibits the addition of stage 2 aircraft to existing fleets.

The conference on the aviation issues has not been an easy one. My colleague in the House, JIM OBERSTAR, and I have worked more than a week crafting a compromise. Senate and House staff have met around the clock to complete the title in time. The issues we were dealing with are critical to our airlines and our airports, as well

as to our citizens. I often say there are no victories in Washington, just degrees of defeat. But I don't feel defeated by the compromises in this bill. This measure will give the air carriers the assurance they need to go forward with the modernization of their fleets, to borrow money to buy the stage 3 aircraft which, ultimately, will improve the quality of life for those citizens living near airports.

After this noise policy is in place, the Secretary may grant authority to airports to impose passenger facility charges [PFC's] for specific airport projects. Before submitting an application to the Department of Transportation, airports must confer with their users and agree on the project to be funded by the additional fees. I hope that the PFC will increase airport capacity and promote growth in a system which is straining to accommodate the needs of the flying public. Provisions of the legislation require a turn back of 50 percent of entitlements by an airport which chooses to charge a PFC. This turn back money will be used to fund small hubs, small airports and general aviation airports.

The bill also authorizes contract authority from the Airport and Airway Trust Fund for the Essential Air Service Program. This will assure continued air service to small communities around the country. The aviation title continues important programs of the Federal Aviation Administration: research, capital development and airport grants, as well as the operation of the air traffic control and aircraft inspection systems.

I urge the Senate to pass this reconciliation package and I appreciate the support of my colleagues in including this aviation package.

Mr. BRADLEY. Mr. President, I thank the Senator from Kentucky, and appreciate his clarifications. I would like to ask further clarification on how the national noise policy will be implemented.

The inclusion of the national noise policy as part of budget reconciliation prevented the committee from holding public hearings and establishing congressional priorities for the policy. The bill provides for the policy to be written by the Secretary of Transportation with opportunities for involvement by citizens through public hearings and a comment period.

Through the course of the hearing process a national noise policy will be developed which will reflect a broad spectrum of interests. The people who are directly affected by aircraft noise have a special understanding of its consequences and therefore must play a part in crafting a national noise policy. It is vital that the local authorities and citizen's groups have a role in developing this policy.

I hope that the committee will exercise rigorous oversight of the development of the national noise policy to make sure that adequate public participation is granted by the Secretary.

Mr. FORD. The Senator can be assured that the committee will monitor the development of the national noise policy. One of the things we will look for is adequate citizen input. The law requires the Secretary to conduct hearings and provide for a public comment period. Congress will also have the authority to make recommendations.

I want to assure my colleagues from New Jersey that the local authorities and citizen groups will play a significant part in this process. The National noise policy should be developed with full opportunity for Federal, local, and civic input.

Mr. LAUTENBERG. Mr. President, I would like to ask the Senator from Kentucky, the chairman of the Aviation Subcommittee, for some clarification on the aviation noise provision included in this proposal.

As my colleague knows, Senator BRADLEY and I have been working hard to address this problem. It has been a difficult task, but we are making progress. An important part of this progress has been getting the Port Authority of New York and New Jersey, which operates the major airports in our region, to start working with us.

We oppose any policy that would preempt the accomplishments we've made, or efforts we are making. That is why we opposed the original aviation noise policy proposal.

The Senator from Kentucky acknowledged the concerns we and others raised, and has worked to modify the proposal. It is that modification that is now in this reconciliation package.

With regard to the modified proposal, I ask the Senator from Kentucky if he would confirm these points to be true:

First, this agreement would not affect noise control programs now in effect, such as those that have been adopted by the Port Authority of New York and New Jersey.

Second, that, under this proposal, an airport operator would be allowed to impose restrictions on stage 2 operations, without the approval of the FAA, and without risking the loss of AIP money. This is particularly important, as reducing the number of stage 2 planes serving Newark International is a critical part of our efforts to reduce noise in New Jersey.

Third, that the FAA or airport operator would not be prevented from working out operational changes, such as random vectoring, variation in runway use, or altitude requirements, that are designed to reduce noise impacts.

And, an airport operator could impose restrictions on the use of stage 3 planes, by barring certain types, for example, or limiting them to certain hours of operation, subject to review and approval by the FAA.

Mr. FORD. The Senator is correct on each of those points. He has made the case for his constituents, and I believe that we have taken the steps in this legislation to protect the efforts that he has been making to reduce aviation noise in New Jersey.

I also would note that this package contains, at the request of the two distinguished Senators from New Jersey, a requirement for the FAA to conduct an environmental impact statement on the expanded east coast plan. In response to concerns that have been voiced by his constituents, the bill also would not give legislative backing to the 65 Ldn standard as a measure of noise impact.

Mr. LAUTENBERG. I appreciate the clarification made by the distinguished senior Senator from Kentucky, and thank him for his efforts to modify this provision.

"NO" ON RECONCILIATION, "YES" ON GETTING THE JOB DONE

Mr. HOLLINGS. Mr. President, I will vote against this reconciliation bill. Quite frankly, I have been chomping at the bit to find a budget package that I can vote for, a budget package that addresses the magnitude of the problem and that offers some promise of actually balancing the budget over a 5-year period. This bill fails on all counts.

Indeed, this bill is next of kin to the original, discredited summit package, and it displays most of the same warts and deformities of the earlier version. It disproportionately slashes Medicare benefits. It leaves defense spending virtually untouched and sacrosanct, while hog-tying domestic discretionary spending in a 3-year straitjacket, meaning that we can forget about any new initiatives to improve education, to rebuild infrastructure, to boost competitiveness. This package is all pain and no gain. It raises the debt limit by $1.9 billion, which gives us a good idea of the magnitude of additional deficit spending which is expected over the next 5 years. And it will still leave us with a whopping deficit in 1995. So what is the purpose of this exercise?

Mr. President, to demonstrate the futility and abject inadequacy of this bill so far as deficit reduction is concerned, consider the following. When we originally passed Gramm-Rudman-Hollings in 1985, that law anticipated a fiscal year 1991 deficit of zero. When Gramm-Rudman-Hollings was revised in 1987, that revised law anticipated a fiscal year 1991 deficit of $64 billion. In this latest incarnation of Gramm-Rudman-Hollings, the 1991 deficit is anticipated to approach no less than $330 billion. So by what bizarre standard can we claim that this reconciliation bill is a serious assault on the deficit? We are going backward, not forward.

Senators are well aware of my efforts in recent weeks to advance my own budget freeze plan designed to accomplish the objective of saving $50 billion in 1991—$10 billion more than this bill provides for—and $500 billion

over 5 years. More importantly, for years now I have urged freeze plans and a value-added tax which would to well beyond that limited objective by actually balancing the budget over the same timeframe. So I have sought to be constructive, but I refuse to capitulate on my fundamental insistence that we produce a deficit-reduction package that is real, and that will get the job done. At this point, I believe I can best serve the Senate by sticking to my guns. The inadequacy of this package will be abundantly manifest within a matter of months. Deficit forecasts will skyrocket. Our foreign creditors, looking inward in the case of the Japanese and looking eastward in the case of the Europeans, will refuse to continue financing our run-away deficits. At that point, Congress and the President will at long last be ready for a budget freeze and a value-added tax which, together, will move this country toward a balanced budget in short order. I am prepared to lead that effort, to pay whatever political cost is involved in selling and administering that bitter medicine. But I cannot support the present, entirely inadequate measure.

Let us look at several of the major elements of this reconciliation bill. Most of its basic elements should be familiar to us, inasmuch as this is essentially a reincarnation of the original budget summit package.

This reconciliation bill claims that its $500 billion in deficit reduction between 1991 and 1995 will balance the budget. But, in truth, it asks us to solve the problem by ignoring half of it. The General Accounting Office concluded only last month that it will take closer to $1 trillion in deficit reduction between 1991 and 1995 to balance the budget. On top of that, like the summit package before it, this bill is puffed up with impossibly inflated economic assumptions, for instance, projecting 1992 economic growth at 3.8 percent and interest rates declining to 4 percent. At very best, the agreement's $500 billion objective is like throwing a 50-foot lifeline to a drowning man 100 feet off shore.

One more great shame of this reconciliation bill is that it essentially guts the original focus of Gramm-Rudman-Hollings. Heretofore, Gramm-Rudman-Hollings has been premised on specific targets aimed at achieving a balanced budget. That is now gone. In its place, this bill talks only about targets for proposed savings. In other words, in 1991 we only have to reach the proposed savings of $40 billion, and no one is supposed to notice or care that the deficit skyrockets to $253 billion. By 1995, the last year of this plan, even the wildly optimistic OMB projection foresees a $63 billion deficit—even after raiding the trust funds, factoring in rosy economic assumptions, and excluding the S&L bailout costs. A more accurate deficit projection for 1995 would be closer to $200 billion. In other words, the deficit can continue to grow unchecked in each and every year of this agreement, but as long as we reach our target for proposed savings, then we get to claim that we did our job. Perhaps nothing more clearly illustrates the inadequacy and sham of this approach. The summiteers are clever. They reform the budget process by eliminating it and go to a savings process. The problem is solved by restating it.

Mr. President, aside from the deceit, both the summit package and this Senate variant are downright dangerous in terms of policy. Both packages officially kill any idea of a peace dividend. Gone are predictions of defense budgets being pushed down toward $250 billion over the next several years. Instead, the plan expressly locks in Pentagon budgets at no lower than $292 billion annually for the next 3 years. What's more, the cost of Desert Shield—whether it ends up at $5 billion or $50 billion—does not count against the $292-plus billion spending limit. Instead of a peace dividend, we are awarding the Pentagon a war dividend by exempting it from significant cuts and giving it carte blanche in the Persian Gulf.

Mr. President, this reconciliation bill is especially shameful in that it fails to address our changing national priorities. During the last year, our Nation has moved from the cold war to the trade war. We have a crying need for new investments in education and infrastructure in order to get our country moving and competitive. This bill offers a martial plan for the military, not the domestic Marshall plan we desperately require.

I can tell you that the extremely low spending ceilings for domestic discretionary spending are not adequate to fund even current program obligations. Beyond that, the bill assumes zero new initiatives by the self-styled education president, environment President, child care President, and his like-minded colleagues in Congress.

Mr. President, this reconciliation bill presents us with a formula for a gridlocked Congress and a do-nothing Government for the next 5 years. It also grants three-way veto authority to a willfull minority in Congress. Take your pick from the Sununu veto, the Dole veto, and the Darman veto. The Sununu White House can exercise the traditional constitutional veto requiring 67 votes for override. The distinguished Republican leader, Senator DOLE, has his own veto power under the provision requiring a 60-vote point of order for any bill exceeding the spending caps. And Dick Darman has yet a third veto option by virtue of OMB's authority under the terms of this package to rule unilaterally on whether a given bill violates the spending caps.

Both President Bush and President Reagan have acknowledged that the discipline of deficit targets has been the single most useful tool in controlling spending. By gutting the targets and the points of order used to enforce them, this legislation completely undermines our efforts to pay the bill.

Meanwhile, the Senate Budget Committee will be reduced to automatic pilot. It will be stripped of any meaningful role in establishing budget priorities, and will quickly fall into irrelevance.

As I said, Mr. President, this is a sure-fire formula for a deadlocked Congress and a do-nothing Government. That may be just fine in the eyes of a President without an agenda. But America deserves an agenda, and a leadership willing to pay for it.

Mr. LAUTENBERG. Mr. President, the budget package before us today contains a very important provision that I requested to extend the Superfund tax for 4 years.

Based on legislation, S. 3182, I introduced earlier this month, the Superfund extension is vital for preventing disruptions in the national cleanup effort during the upcoming reauthorization process. The legislation was cosponsored by Senators BURDICK, CHAFEE, and DURENBERGER.

A special word of thanks to the distinguished chairman of the Senate Finance Committee. Without his positive response to my request and support for it in the conference committee, we wouldn't have gotten this extension.

I thank him and commend him for his leadership, and I also thank his fine staff, particularly Mr. Don Spellman, for their hard work on this issue.

Mr. President, I will ask unanimous consent that a copy of recent correspondence between myself and Senator BENTSEN and Congressman ROSTENKOWSKI be included following my remarks, along with a copy of S. 3182.

Mr. President, one very important lesson of the past Superfund reauthorization effort was the devastating effects a funding slowdown can have.

I was deeply involved in the last reauthorization. It was a controversial and lengthy process, during which funds ran out for the program. While I was able to help EPA maintain a skeletal program during this time through emergency short-term funding measures, the program lost valuable personnel, cleanups were delayed, and contracts were threatened. The very survival of the national cleanup effort was in question.

Throughout this year, Administrator Reilly and others at EPA have indicated that without an immediate extension of the Superfund tax, we would have been facing a repeat of the 1986 situation. With the current funding authority expiring on December 31, 1991, the Agency indicated that without an immediate extension, it would have been forced to start slowing down the program later in this fiscal year.

But the action we are taking today will prevent this slowdown. It will allow vital cleanup work to go forward at the many hazardous waste sites

that scar the Nation. It will allow EPA to continue the effort to improve the program.

I can't overemphasize this last point, for I believe that continued improvements are essential. Extending funding for Superfund is not an endorsement of business as usual. It's simply a commitment to a rational process that will allow us to work to fix the program without at least time letting it shut down.

That's why I've worked so hard to extend the program. And that's why I've worked even harder to reform the program.

Since the 1986 reauthorization, I've held numerous oversight hearings aimed at improving the program's implementation. In report, "Cleaning Up the Nation's Cleanup Program," The 200-page report provided 44 recommendations on ways to improve Superfund's implementation, including ways to speed up cleanups, improve enforcement, and to retain and train staff,

During Administrator Reilly's confirmation hearing I raised a number of concerns about how the program was operating. In response to my concerns the Administrator committed to a 90-day review of the Superfund Program. He issued his findings in the so-called Superfund Management Review in 1989, a report which included a number of recommendations from my report on Superfund.

While I have not agreed with EPA in many of its Superfund policies, without question the program is in far better shape than it was in its first five years. The rates of almost all phases of the cleanup process are up, and the program is generally more productive than it was in those disappointing first years.

Clearly more improvements need to be made in implementing Superfund. But while those improvements are being made, we should not let the program grind to a halt.

I intend to continue my efforts to push EPA to improve its implementation of the current law. At the same time I hope to begin in the next Congress the process of considering ways to improve the Superfund law itself.

But since the goal of oversight and reauthorization is to improve Superfund. I just don't think it makes sense to allow the program's funds to run out during such efforts.

Mr. President, with today's Superfund extension, we make it clear that the war on toxic waste sites, and those who create them, will not be deterred. We tell the citizens of this country that we will not let them down in the effort to protect them from the ravages of contaminated groundwater, soil and air. We take a vital step toward a better Superfund Program and a cleaner environment.

Although I cannot support this budget package. I want to make clear my appreciation to the chairman of the Finance Committee for including my Superfund extension proposal in the conference agreement, and my strong support, as the proposal's author, for the Superfund extension provision, despite my opposition to the budget package as a whole,

I ask unanimous consent that the material I referred to earlier be printed in the RECORD,

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

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC, October 22, 1990.

Hon. LLOYD BENTSEN,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

DEAR LLOYD: I am writing to you to express my continuing support for adopting a five-year extension of the Superfund funding provisions as part of reconciliation.

As I indicated during Senate Finance Committee consideration of the budget reconciliation package, I believe such an extension could help us avoid a repetition of the funding disruptions that occurred during the last reauthorization of Superfund. Although I realize the Finance Committee was unable to incorporate my Superfund extension bill, S. 3182, into the Senate package, I urge you to continue to press for the extension during the ongoing negotiations with the House on the budget reconciliation package.

I was deeply involved in the last Superfund reauthorization process. I remember vividly the damage caused to the program by the disruption in funding that occurred. Indeed, I was the author of several short term interim funding measures to keep things going. While we did keep a skeletal program going, we lost valuable personnel, cleanups were delayed, contracts were threatened, and it was unclear that the program would survive.

I intend to continue my efforts to push the Environmental Protection Agency (EPA) to improve its implementation of the current law, while at the same time beginning in the next Congress to consider ways to improve the law. But since the goal of both oversight and reauthorization is to improve the operation of the Superfund program, it simply does not make sense to allow the program's funds to run out during such efforts.

Providing for the extension at this time would avoid the possible slow-down in the program that could begin as early as this fiscal year. According to EPA staff, such a slow-down might be made necessary as the Agency considers the uncertainty of funding in years following FY 91.

We should act now to avoid such disruptions, and take this opportunity to extend the program's financing mechanism for another five-year cycle. I have consulted with Senator Burdick, the Chairman of the Environment and Public Works Committee, and he joins me in the hope that the conference with the House will provide another opportunity to pursue this important goal. We look forward to working with you to assure the effective operation of the Superfund program.

Sincerely,

FRANK R. LAUTENBERG,
Chairman, Subcommittee on Superfund, Ocean and Water Protection.

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC, October 22, 1990.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR DAN: I am writing to you to express my continuing support for adopting a five-year extension of the Superfund funding provisions as part of reconciliation.

As I indicated during Senate Finance Committee consideration of the budget reconciliation package, I believe such an extension could help us avoid a repetition of the funding disruptions that occurred during the last reauthorization of Superfund. Although I realize the Finance Committee was unable to incorporate my Superfund extension bill, S. 3182, into the Senate package, I urge you to support the extension during the ongoing negotiations with the Senate on the budget reconciliation package.

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We should act now to avoid such disruptions, and take this opportunity to extend the program's financing mechanism for another five-year cycle. I have consulted with Senator Burdick, the Chairman of the Environment and Public Works Committee, and he joins me in the hope that the conference on reconciliation will provide another opportunity to pursue this important goal. We look forward to working with you to assure the effective operation of the Superfund program.

Sincerely,

FRANK R. LAUTENBERG,
Chairman, Subcommittee on Superfund, Ocean and Water Protection.

S. 3182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ENVIRONMENTAL LAW EXTENSION.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended as follows:

(1) subsection (a) is amended by inserting immediately after "Reauthorization Act of 1986," the following: "and $8,500,000,000 for the period commencing October 17, 1991, and ending September 30, 1996,";

(2) subsection (c)(11) is amended by inserting immediately after "1986," the fol-

lowing: "and during the 5-fiscal-year period commencing October 1, 1991,";

(3) subsection (c)(12) is amended by deleting "and 1991" and inserting in lieu thereof "1991, 1992, 1993, 1994, 1995, and 1996";

(4) subsection (m) is amended by deleting "1990 and 1991" and inserting in lieu thereof "1990, 1991, 1992, 1993, 1994, 1995, and 1996";

(5) subsection (n)(1) is amended by deleting "and 1991" and inserting in lieu thereof "1991, 1992, 1993, 1994, 1995, and 1996";

(6) subsection (n)(2)(E) is amended to read as follows:

"(E) For each of the fiscal years 1991, 1992, 1993, 1994, 1995, and 1996, $35,000,000.";

(7) subsection (n)(3) is amended by deleting "and 1991" and inserting in lieu thereof "1991, 1992, 1993, 1994, 1995, and 1996"; and

(8) subsection (p)(1) is amended by inserting immediately after "(E) For fiscal years 1992, $212,500,000.", the following:

"(F) For fiscal year 1992, $212,500,000.

"(G) For fiscal year 1993, $212,500,000.

"(H) For fiscal year 1994, $212,500,000.

"(I) For fiscal year 1995, $212,500,000.

"(J) For fiscal year 1996, $212,500,000.".

SEC. 2. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Section 4611(e) of the Internal Revenue Code of 1986 (relating to application of hazardous substance superfund financing rate) is amended—

(1) by striking "1992" each place it appears in paragraphs (1) and (3)(B) and inserting "1997",

(2) by striking "1989" in paragraph (2) and inserting "1994",

(3) by striking "1990" each place it appears in paragraph (2) and inserting "1995",

(4) by striking "1991" each place it appears in paragraphs (2) and (3)(A) and inserting "1996", and

(5) by inserting "after December 31, 1991, and" before "before January" in paragraph (3)(B).

(b) CONFORMING AMENDMENTS.—

(1) Section 59A(e)(1) of the Internal Revenue Code of 1986 (relating to application of environmental tax) is amended by striking "1992" and inserting "1997".

(2) Section 4661(b) of such Code (relating to amount of tax on certain chemicals) is amended by striking "1992" and inserting "1997".

(3) Section 9507(d)(3)(B) of such Code (relating to authority to borrow) is amended by striking "1991" and inserting "1996".

(4) Section 517(b) of the Superfund Revenue Act of 1986 (relating to authorization of appropriations) is amended—

(A) by striking "and" at the end of paragraph (4), and

(B) by inserting after paragraph (5) the following new paragraphs:

"(6) 1992, $250,000,000,

"(7) 1993, $250,000,000,

"(8) 1994, $250,000,000,

"(9) 1995, $250,000,000, and

"(10) 1996, $250,000,000,".

Mr. GARN. Mr. President, in 1986, I rose before this body to plead for action to provide funds for the Federal Savings and Loan Insurance Corporation. I urged Congress to provide funds so that the FSLIC could close down insolvent thrift institutions before the S&L problem mushroomed into a massive catastrophe for the American taxpayer. On October 18, 1986, I said:

There is no question in anyone's mind—including all the financial regulators—that FSLIC recap is necessary. The real question is whether it's necessary this month, next month, or in 6 months, and the answer is that we should not tempt the hand of fate by doing nothing now. The consequences of that kind of inaction are bleak: potentially devastating losses to the FSLIC fund, and even the possibility of direct Federal appropriations.

Unfortunately, parochial interests prevailed, and Congress did not act. The result of that inaction is today costing the American taxpayer up to $500 billion.

Mr. President, so far this year the Congress has once again refused to act on vital legislative provisions necessary to save taxpayers potentially billions of dollars and maintain the health and stability of our deposit insurance systems. This is inexcusable.

I am referring explicitly to the failure of the U.S. Congress to pass legislation to alleviate the cloud of environmental liability hanging over the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, and federally insured depository institutions.

Mr. President, in March of this year I introduced a bill that would provide some limited protection to the FDIC, RTC, insured depository institutions, and other mortgage lenders against potentially unlimited environmental liability for problems they did not cause.

In June, a revised version of this legislation was introduced, and hearings were held in the Banking Committee. In these and other hearings held by the committee, one point has been repeated over and over again by Chairman Seidman and other representatives of the FDIC and RTC: This bill is vital to the health of our deposit insurance system, and necessary to contain the costs of the savings and loan resolution process.

The RTC wrote to the committee that, quote:

If the RTC is not successful in avoiding (environmental) liabilities * * * the very resources dedicated by Congress to the rescue of savings and loans could be imperiled.

The FDIC, testified before the Banking Committee that:

The environmental laws, as presently interpreted * * * pose significant risks to the FDIC's goal of protecting depositors. * * * Current environmental laws may directly affect the soundness of the Federal Deposit Insurance funds and the stability of the deposit insurance system generally.

Bill Seidman, Chairman of the FDIC and RTC, warned of the urgent need for this legislation over and over again. On July 31, he stated before the committee that relief from environmental liability is, quote:

Really vital to our going ahead with selling property in the RTC and we certainly need that if we are going to contain costs * * *.

Later in this same hearing Chairman Seidman repeated his concern over this issue by stating:

The environmental (legislation), I would emphasize, is very important to us continuing to be able to sell real estate—particularly large pieces of real estate—from the RTC and that's vital to holding the costs down.

In August, Chairman Seidman, appearing before the committee for a hearing on bank and thrift fraud, again stated the need to pass this legislation this year. In his own words:

The (environmental bill) has some vital provisions for our proceeding on a cost-effective basis. The environmental provisions are very important, and there are a number of other provisions in there. Every one of them will save money to the taxpayer and are important to our getting the job done. I hope the Congress will pass it before it leaves.

In September, Mr. Seidman testified before the Banking Committee on issues relating to the RTC. At this hearing he again reiterated his concern that we act on this issue this year. He stated, and I quote:

This is vital legislation for the proper operation of the RTC. It is basically not an environmental issue. It is an issue of whether either lenders or borrowers are going to have to pay for liability which they had nothing to do with creating and did not know about. Frankly, it is going to be very costly for the RTC and FDIC if we do not address this problem. We strongly urge passage of (this) legislation before the end of the year.

Let there be no mistake. The potential clean-up costs facing the RTC and FDIC are quite significant. We are talking about billions of dollars of known liability right now, but this is just the tip of the iceberg, neither the FDIC nor the RTC knows for sure the full extent of its potential exposure. However, preliminary surveys by the FDIC indicate that they are holding at least 270 properties with environmental contamination. Estimated clean up costs to the FDIC for these properties alone are in the $1 billion range.

The RTC has already identified approximately 300 properties in its inventory with estimated environmental liability of $1.5 billion.

The RTC and the FDIC will be taking over the assets of hundreds of additional banks and thrifts in the coming years, and each closure brings with it the peril of finding additional contamination, with unknown billions of clean up liability. Moreover, even if no problem is known to exist with a particular property, the specter of environmental liability inhibits its sale, thereby driving up the costs to taxpayers.

Mr. President, over reaching by the courts in interpreting environmental laws also threatens the Federal deposit insurance funds by imposing liability on private lenders who are not responsible for the contamination.

When Congress enacted the Superfund Act in 1980 we specifically carved out an exception for secured creditors. In 1986 Congress attempted to provide additional protection through the so-called innocent landowner provision.

Despite the clear congressional intent to protect innocent lenders from liability, these provisions have been construed by the courts and the

EPA in such a manner that little to no protection is afforded at all.

For example, the U.S. Court of Appeals for the 11th Circuit, the case of United States versus Fleet Factors, stated that a secured lender could be liable for environmental pollution caused by the borrower, even if the lender does not foreclose, or take any other action with respect to the mortgaged property, but simply based on the theory that the lender could have affected hazardous waste disposal decisions if it so chose.

This and other court decisions and EPA interpretations have a significant detrimental impact—not only on lending institutions—but also on our Federal Deposit Insurance system and on our economy, particularly small businesses.

The FDIC's concern arises from the fact that an insured institutions, capital may be depleted by environmental claims, or because institutions are afraid to foreclose on potentially damaged property, and thus may be forced to write off the entire value of the loan, rather than risk potential environmental liability.

This is not mere speculation on the part of the FDIC. During our hearings we learned, for example, that one bank in Montana, is now facing potential insolvency due to a single loan made in 1980, prior to the enactment of the original superfund legislation.

The loan was for $200,000, and was made to a telephone pole treatment company. The company defaulted on the loan in 1984, and the bank temporarily held the property for several months, in February 1990, the bank was notified of its potential liability by the EPA because of its temporary ownership of the land in 1984. The cleanup costs are projected to approach $10 million. The total capitol of the bank is only $2.5 million, so this one environmental claim, if successful, could result in the insolvency of the bank.

This is but one example of the problem lenders are facing. There are many, many more. The potential for environmental liability is having a significant effect on the ability of certain sectors of our economy to obtain bank credit.

Congressman LaFalce, chairman of the House Small Business Committee, testified before the Senate Banking Committee that the current situation creates credit problems for the small business community that are national, in scope and growing. According to Chairman LaFalce, lenders across the country have stopped making secured loans to businesses that use hazardous materials or are located in areas of possible contaimination. The result is that thousands of well-run, creditworthy small businesses cannot obtain the financing they need to survive.

Businesses that are affected include: gas stations, auto repair shops, dry cleaners, tool and die shops, wood preserving facilities, scrap yards, railroad facilities, utilities, bottling and canning facilities, metal fabricating facilities, chemical manufacturers and distributors, and fertilizer or pesticide producers and distributors.

Mr. President, I am not saying that environmental problems are not serious, or that contaminated sites should not be made safe and clean. This Nation should and must take care of our pollution problem.

Congress addressed this concern when it created the Superfund in 1980. This is the fund, and the EPA is the agency, that should be responding to toxic pollution. The FDIC, the RTC, and federally insured depository institutions and other mortgage lenders should not be allowed to become the "deep pocket" for environmental costs in cases where they are not responsible for the problems.

If additional funds for environmental protection are needed, Congress should appropriate those funds for that purpose, rather than raid funds designated for S&L cleanup and expose our entire financial system to risk and possible failure in order to have a source of funds for pollution cleanups.

Mr. President, the Congress is on notice. We have been informed of the facts. The failure to pass legislation dealing with liability for environmental problems will increase the cost to the U.S. taxpayer for resolving the S&L crisis. It will threaten the stability of our deposit insurance system. It will cut off credit to whole sectors of our economy.

Yet, despite the crucial importance of this legislation, despite the clear record that has been compiled, despite the discussions and negotiations, this body has not even allowed me the opportunity to have a vote on this legislation.

The issue will not go away. It will be back next Congress. It will have to be addressed. But the delay in acting will cost the American taxpayer billions of dollars. And I consider that to be just plain wrong.

Mr. COHEN. Mr. President, when the budget resolution was being debated earlier this month, I indicated that I supported the overall goals that were set by the resolution; namely, to seek a deficit reduction of $40 billion over the next fiscal year, and deficit reduction of $500 billion over the next 5 years.

In supporting that resolution, I also indicated that I would reserve judgment on the final reconciliation package to determine whether the means by which the deficit reduction targets were met were fair and equitable. I, like many of my colleagues, voted against the Senate reconciliation bill last week because I believed that the package placed a disproportionate burden on the poor, the elderly, and the middle-class. During the course of the debate on the Senate bill, I supported several amendments that would have made the bill more acceptable, but ultimately, I voted against the bill because I firmly believed that the bill was not fair, and that the deficit reduction burden should be spread more evenly over all income levels.

I had hoped that the conference committee on the reconciliation bill would produce a reconciliation package that I could support. Unfortunately, however, the two areas of the Senate bill which I opposed most strongly are contained in the conference report on reconciliation.

First, this conference report still imposes major cuts in the Medicare Program. While the conference report requires somewhat less out-of-pocket expenses for the elderly than previous proposals would, the conference report would still exact a real hardship on those with fixed incomes. The elderly would also be hurt by the proposed cuts for hospitals and physicians. Past experience has shown that, when Medicare payments are drastically reduced, services for the elderly suffer.

The proposed Medicare cuts could also have a severe impact on Maine hospitals. Eighty percent of Maine's hospitals lost money in 1989, and 10 Maine hospitals are spending money set-aside for investment to help make ends meet—situations that are closely linked to past Medicare shortfalls. Further shortfalls would be particularly troubling in light of their likely impact on private health insurance premiums. In the past, hospitals have made up for their losses in Medicare by shifting costs to private insurers. Hence, the result is simply higher premiums for everyone.

Second, the conference report contains an increase in the Federal gas tax at the very same time that the price of gas continues to be high at the pump. While we have seen some fluctuation in the price of gas over the last few days, this is still the wrong time to be imposing an increase in the gas tax.

Perhaps if the price of gas were down to the level that it was in August, an increase in the gas tax might make some sense. But even then, this increase would mark the first time that we are using the gas tax for deficit reduction, rather than using it for the highway trust fund, to build roads and improve the infrastucture. Once more, the 5-cent increase in the gas tax, while better than the doubling of the gas tax that was contained in the Senate's reconciliation bill, still cuts into the States' ability to use the gas tax for revenues, and disproportionately hurts States like Maine, in which people have to travel long distances, especially in rural areas.

While I realize that it would be impossible to craft a budget package that would be acceptable to every Member of the Congress, every Member must apply a basic test of fairness to a package, based on the needs of the constituents he or she represents, as well as on his or her own judgment. While

I believe that this agreement is an improvement over what was proposed before, it still does not go far enough to hit the mark of fairness and equity.

I am pleased that the package contains a higher top marginal tax rate for persons at upper-income levels, and that other provisions, such as an increase in the alternative minimum tax, have been included to spread the burden of deficit reduction. Still, I believe that the package should include other provisions affecting very high-income levels, such as a surtax on millionaires, rather than continuing to make middle-income persons shoulder a significant portion of the tax increases under this bill. In my judgment, those who have the greatest ability to pay also have the greatest obligation to pay. Placing more of the burden on the very rich would be far preferable to an increase in the gas tax, and far better than cuts in Medicare.

On the spending side, I fully support the cuts that are called for in defense spending. They are an important recognition of the changes that have taken place in Eastern Europe. I also believe that the caps on discretionary spending contained in the conference report are a step in the right direction. But on the whole, I cannot support the conference report because of its cuts in Medicare, increases in the gas tax, and effects on middle-income taxpayers and families.

Mr. DODD. Mr. President, every so often, we, in Washington, have a chance to do something right for the children and families of this Nation; something which fulfills both national goals and individual needs; something which is both a prudent expense today and a sound investment for tomorrow. Every so often we turn political rhetoric into bipartisan action. Today, the U.S. Senate has one of those rare opportunities—to pass meaningful child care legislation included in the reconciliation conference report now before us which will really make a difference in the lives of millions of low-income families. This could be the first comprehensive Federal child care law in our Nation's history.

As the sponsor of S. 5, the child care legislation which passed the Senate almost 16 months ago, I am very pleased that we were able to reach a bipartisan agreement with the White House on a new Child Care Grant Program. The Child Care and Development Block Grant Act of 1990 has been included in the reconciliation legislation together with a package of expanded tax benefits for low-income families with children developed by Chairman LLOYD BENTSEN and other members of the Senate Finance Committee and the House Ways and Means Committee.

Mr. President, by definition legislation is a process of give and take—of confrontation and conciliation. Our child care agreement with the administration is the product of a tough negotiating process. But what made this agreement possible is our mutual commitment to provide parents with the greatest range of choices possible for the care of their children.

We and the White House began the 101st Congress very far apart. Two years ago, President Bush wanted no grant program at all; the sponsors of S. 5 wanted a large grant program with rigorous health and safety requirements. The agreement embodies in this reconciliation measure is a perfect balance—a grant program which will deliver critical funds to the States to enable them to improve the quality, availability and affordability of child care and to maximize parental choice.

Under this legislation, each State will reserve 25 percent of its total allotment for activities to improve the quality of child care and for early childhood development and latchkey services. The funds reserved for quality will provide the States with a strong incentive to improve child care standards and the training and salaries of child-care providers on a State-by-State basis. The funds reserved for grants and contracts for early childhood development and latchkey programs will be targeted to local communities with high concentrations of poor children.

The remainder of block grant funds will be used by the States for a range of activities to improve the affordability, availability and quality of child care services. We hope and expect that the preponderance of these funds will be used specifically to help low-income parents pay for child care services. States may also use the funds to establish State liability risk pools, to provide grants or loans to child-care providers to increase the supply of care, or for public-private partnership programs which involve businesses in meeting their employees' child care needs. Employer-supported child care programs are critical in meeting the needs of today's working families and I hope the States will use funds provided under this legislation to encourage business involvement. Next year, I hope to build on the strides we have made in this area by introducing legislation in the next Congress which provides more specific incentives for employers to establish innovative child care arrangements.

Under the Child Care and Development Block Grant Act of 1990, States will establish minimum health and safety requirements for all child-care providers receiving funds under the Act. These requirements will include the prevention and control of infectious diseases, building and physical premises safety, and training for child-care providers. Within this general mandate, the States will have broad discretion to decide how best to apply these requirements to different care settings.

Mr. President, let's be honest. Until now, the politics of child care have generated far more heat than light. But today, we have the chance to shed our political baggage and do something truly meaningful for the families of this Nation. We have bipartisan agreement on a comprehensive child care package. We have legislation which embodies goals we all share—funds targeted to low-income families; parental choice and involvement in the care of their children; and State and local control over standards and licensing decisions.

On an issue like this, no agreement is perfect. There will be those on the left or right who feel we or the White House went too far. But what that tells me is that we have a fair and balanced agreement that will have the broad support of American families as well as State and local governments. If the 101st Congress is remembered for nothing else, I hope and expect it will be known as the time Democrats and Republicans came together in the name of children and working families in this Nation.

I ask unanimous consent that a summary of the child care amendment be included in the RECORD. I further ask consent that statements by Senators KENNEDY and MIKULSKI and a colloquy between myself and Senator DOLE be included in the RECORD at this point and that statements by any other Senators on the child care amendment be included together in the RECORD at an appropriate point.

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

CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT

IN GENERAL

States will receive funds through a formula that takes into account the number of children below age five and the number of children receiving assistance through the School Lunch Program in the state.

ELIGIBLE CHILDREN

Children of working parents are eligible if they are below age 13 and their family income is below 75 percent of the state median income.

75 PERCENT OF FUNDS

75 percent of funds may be used for child care services or for activities to increase the availability and quality of child care. All child care services provided with this share of funds will be available through grant, contract, or certificate so that parents have the maximum range of choices of child care providers, including care by relatives and care in neighborhood homes, churches, and schools. Parents receiving certificates may select any licensed, regulated, or registered provider that is in compliance with applicable state and local law.

25 PERCENT OF FUNDS

25 percent of funds are reserved for quality improvement activities and early childhood education and latchkey programs.

Of the reserve, not less than 75 percent will be used for early childhood education and latchkey programs. Services funded with this share of funds will be provided through grant or contract. Priority for services under this reserve goes to areas eligible for concentration grants under the Chapter 1 program.

Of the reserve, not less than 20 percent will be used for quality improvement activities, including grants or loans to help providers meet state or local standards; activities to improve the enforcement of state standards and licensing and regulatory requirements; providing training and technical assistance; and improving salaries for child care providers.

STANDARDS

The state must establish health and safety requirements for all providers receiving assistance under this Act and ensure that such providers demonstrate compliance with such requirements. The state health and safety requirements will include requirements concerning the prevention and control of infectious diseases (including immunization), building and physical premises safety, and a health and safety training requirement appropriate to the provider setting.

Eligible providers must be in compliance with all applicable state and local licensing and regulatory requirements. A state may impose more stringent standards and licensing or regulatory requirements on child care providers who serve children for which assistance is provided under this Act than on providers who do not receive public funds.

If a state reduces the level of standards applicable to child care services provided in the state, the state shall inform the Secretary of the rationale for the reduction in the state's annual report.

States to conduct a one-time review of state licensing and regulatory requirements and policies unless the state has done so in the three years prior to the date of enactment.

PARENTAL RIGHTS

Parents will have unlimited access to their children in care funded under this Act. States will have have in place a parental complaint procedure, maintain records of substantiated parental complaints, and provide general consumer information. Parents of children served under the 75 percent portion of funds will have the right to receive a certificate rather than a grant or contract and the right to select the child care provider.

STATE PLAN

States will submit plans that include: designation of lead agency; local consultation re: use of funds; coordination with existing programs; general description of planned use of funds; description of planned use of quality reserve; supplement not supplant language; priority for very low income children and special needs; sliding fee scale; provider payment/reimbursement.

REPORTING REQUIREMENTS

States will report to the Secretary annually on use of funds; data on caregivers, children in care, and public-private partnership activities in the state; results of the licensing review; a justification of state actions to reduce the levels of state standards (if applicable); state actions to improve the availability and quality of care; and a description of standards in the state.

The Secretary will report to Congress annually on use of funds in the states; summary and analysis of state reports regarding data on caregivers and children in care, results of the state licensing reviews, state activities to protect the health and safety of children and to increase the availability of care, and state standards; and recommendations to Congress on further steps necessary to ensure the health and safety of children.

AUTHORIZATION OF APPROPRIATIONS

There are authorized to be appropriated $750 million in fiscal year 1991, $825 million in fiscal year 1992, $925 million in fiscal year 1993, and such sums as may be necessary in fiscal year 1994 and fiscal year 1995.

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I would like to ask the distinguished chairman of the Budget Committee, Mr. SASSER, to respond to a question I have concerning the effect of the credit reform provisions of the reconciliation bill on credit programs administered by the Department of Veterans Affairs.

My principal concern relates to whether this proposal could require that, in order for VA to guarantee a loan, an annual appropriations Act must contain a specific appropriation for, or a specific dollar limit on, the issuance of VA guaranties. If that were the case and if, by virtue of a change in economic conditions or any other reason, the dollar level in the VA appropriations act were not sufficient during a particular year, the VA loan-guaranty program could be forced to shut down when the dollar level is reached before the end of the fiscal year. That would mean that veterans then would be unable to use the loan quaranty entitlements they have earned.

Thus, Mr. President, my question is whether the credit reform provisions would have the effect of providing a limit on the number of loans that VA could guaranty, based on a dollar figure appropriated or otherwise established in appropriations acts for VA's loan programs.

Mr. SASSER. Mr. President, I am pleased to assure the very able chairman of the Veterans' Affairs Committee that there would be no change in the programs administered by VA. These programs are in the nature of an entitlement and have permanent authorization, under title 38, United States Code.

The amendments to the Congressional Budget and Impoundment Control Act of 1974 contained in this bill would allow a Federal agency to make direct or guaranteed loans either if an appropriation has been made to the agency for the cost to the Government or if a limitation is enacted in an annual appropriations act on the use of funds otherwise available to the agency for this cost. However, specific exemption is included for those programs considered mandatory in the budget process. VA's loan-guaranty programs are covered by the exception for mandatory programs. VA's annual appropriations act historically includes language that authorizes obligations "in such amounts as may be necessary to carry out the purposes of the 'Loan guaranty revolving fund'" and provides permanent authority for making government contributions to the Guaranty and Indemnity Fund in "such sums as may be necessary."

These quoted provisions underscore the mandatory nature of the VA loan guaranty program and would satisfy the requirements of proposed new section 504(c) of the Budget Act. Moreover, VA's guaranteed-loan programs are protected in the credit-reform provisions from any limitations other than those contained in the statutes authorizing the program by the language of proposed new section 507(a), which states, "Nothing in this title shall be construed to establish a credit limitation on any federal direct-loan or loan-guaranty program."

Mr. CRANSTON. I thank the distinguished chairman of the Budget Committee, who always has been a great friend of our Nation's veterans and an effective advocate on their behalf. I especially appreciate the close cooperation between the staffs of our two committees during the difficult reconciliation process and I thank Senator SASSER for this cooperation and for his assistance.

Mr. ROCKEFELLER. Mr. President, today the Congress fulfills its responsibility to act on behalf of the Nation and most of all, the Nation's future. This is work none of us relish or celebrate. The policies of the past have caught up with the present, and one of the grave consequences is the current Federal deficit. This deficit, which threatens to surpass $300 billion, imperils American's economic future. It threatens to throw our people out of work, to raise interest rates to intolerable proportions, and to prevent us from making critical investments in education, health care, infrastructure, and other vital needs. I am painfully aware that the State I represent, West Virginia, is especially vulnerable to these effects of ignoring the deficit.

Every Member of this body was elected to share in the task of governing. We have asked for the privilege of leading the country, and that is what we must do, every day and every year we hold public office.

Mr. President, the easy vote today is to vote against this deficit reduction package. However, today is not the day to take the easy route. If we are honest to the people we represent and pledge to serve, we must acknowledge that there is no easy or quick path that will eliminate the federal deficit and reorder our fiscal priorities to secure a strong, vital future.

Some have called this past year of debate on the budget—for fiscal year 1991 and as a blueprint for the next 5 years—anything from chaotic to a disaster. I believe, however, that it also has been a very real and meaningful debate about principles, about public policy, and about priorities. Since I was elected to the Senate, there has not been such an explicit discussion of the burdens that exist on different income groups in our country. There has not been such an explicit commitment to make fundamental changes in Government programs in order to spend less and spend more wisely. My hope is that this debate will continue, and that it will help all lawmakers become more committed to our princi-

ples and to the essential test of fairness when we develop budgets and new policy.

This reconciliation package is the result, inevitably, of negotiation and accommodation among both Houses of Congress, among both parties, and between Congress and the President. And I believe it bears the marked imprint of the views of Americans. When the so-called budget summit unveiled its agreement a month ago, and the people saw the burdens it would inflict on the poor, the middle class, and the elderly, they rebelled and told our leaders to go back to the drawing board.

Now, we have before us a major package to achieve the goal of reducing the deficit by almost $500 billion over the next 5 years. It raises substantial new revenue, it cuts Government spending, and it directs resources to meet certain urgent priorities such as child care for working families, health care for poor children, and long-term care for the neediest elderly. Most importantly, it distributes the burden of deficit reduction in a progressive and fair manner. It asks the wealthy to pay a much greater share than those who are not so privileged.

I don't entirely embrace this legislation, nor do I agree or support every section or provision. But we cannot govern or lead by insisting on our first choice or our personal ideal. During the negotiations on the budget, I did insist that we meet the test of fairness and that we reject tricks and gimmicks to accomplish the job of deficit reduction. I believe this package basically lives up to these tests, and I will support and vote for it.

Mr. President, I also am immensely proud of the fact that this legislation contains certain provisions that I worked long and hard to achieve. I was privileged to be one of the conferees for the Finance Committee, and was assigned to negotiate the final agreement pertaining to Medicare, Medicaid, and related issues. In the past week, with the help of tireless and talented staff, we met day and night to finalize the approach to achieving both savings in the health care programs and to determine what affirmative changes we could make to meet the health care needs of people who deserve that help the most. Again, there were disappointments and decisions that I don't support, but in the end, I believe we did the best we could to meet our instructions and to produce positive steps for the future.

In this package, we took a significant step forward toward addressing the pressing long-term care needs of America's elderly. My legislation, the Medicaid Home and Community Care Options Act, was adopted, with $580 million earmarked to provide services to frail elderly in my State and across America. I am also pleased to point out that this legislation contains the funding and authority for a major expansion in Medicaid's coverage of children. This was one of my most fervent goals for this Congress, and I am genuinely excited about this progress. I hope that this will be only the beginning of a national commitment to ensure that every child in America has access to affordable, decent health care.

Mr. President, we set priorities in this legislation. While we asked most Americans to shoulder some part of the burden of deficit reduction, we recognized the fact that some literally can't bear any more burden. We stood up to certain interests, such as prescription drug companies and insurance companies, and mandate important changes to protect the elderly, the poor, and others from abuses that can't be tolerated.

I am very grateful for the privilege of representing the State of West Virginia in the U.S. Senate. I believe West Virginians recognize that solutions to America's greatest problems can't happen overnight. They understand that their congressional delegation can't turn our State's hard times into good ones instantly or effortlessly. But the people of West Virginia do rightfully expect their Senators and elected officials to face up to the job, and to not duck the tough choices. In considering this overall budget package and in participating actively in one portion of it, I tried to live up to these expectations. And in doing so, I fought hard for the basic fairness that my State and the rest of America fully deserves.

Mr. SASSER. Mr. President, this reconciliation bill, the largest deficit reduction package in our history, is the product of many capable and dedicated minds. It represents 10 months worth of work under often trying, if not adverse, circumstances.

And I want to congratulate and thank those who have toiled many long hours in the service of reducing our Nation's deficit.

First I want to acknowledge the tremendous guidance and leadership of the majority leader, Senator MITCHELL. In moments of confusion and seeming gridlock, and believe me there have been many of them throughout the year, he has brought sound judgment and piercing clarity. He kept us focused on the goal, encouraged us when we lacked resolve, shepherded us around one land-mine after another, and steadied us as we moved inch by inch over 10 months to the threshold we are now at.

I would also like to thank the minority leader, Senator DOLE, for his understanding, hard work, and commitment to reality in this process.

Indeed, there are many Members of this body who have been active participants in this complex process, and each deserves great congratulations for their efforts. With the completion of this bill, I have now served 2 years as chairman of the Budget Committee, and I want to thank my counterpart on the committee, Senator DOMENICI, for his hard work, patience and counsel over these 2 years.

I also want to thank Senator FOWLER for his leadership in this process. The odyssey that began at Andrews Airforce Base is now nearing completion due largely to his capable hand.

The work of a reconciliation package is the work of committees, and without the work of the committee chairmen we would surely not be here today. I particularly want to thank Senator BYRD for his wisdom and guidance, without which we could never have arrived at this point.

Now I realize the great weight of responsibility for this bill has fallen on the shoulders of the Finance Committee. Without the diligence of Senator BENTSEN, and the help of Senator PACKWOOD, this agreement would not have been possible, we simply would not have taken this first lunging step out of the deficit swamp.

I also want to thank the very able chairman of the Agriculture Committee, Senator LEAHY and the ranking Republican, Senator LUGAR, for making difficult and painful choices on behalf of this package. The chairman of Governmental Affairs, Senator GLENN, deserves special mention as well.

Of course, without a first-rate staff, work on a bill of this kind—a bill this intricate, far reaching and complex—without and absolute top-notch staff, the work just could not get done. I want to thank and congratulate John Hilley, the Budget Committee staff director on the majority side, and Bill Hoagland, the minority staff director. They are public servants without parallel, and I want to say thank you to all who work for them and for the committee, especially deputy staff director, John Callahan, legal counsel Bill Dauster, Alan Cohen, Sue Nelson, Larry Stein, Agnes Bundy and the rest of the Budget Committee staff.

My gratitude also goes out to the majority leaders' tireless' and dedicated floor staff. They spent many late nights in this Chamber with us. I understand they even worked all night on a number of occasions in order to comply with our needs, and I thank them for their extraordinary efforts. I would like to recognize several floor staffers in particular—Marty Paone, Charles Kinney, Lula Davis, Nancy Iacomini, and Pierre Golpira. Thank you all. In addition, I must thank Jeanine Drysdale-Lowe, Deputy Sergeant at Arms and the Service Department for their timely assistance with our Budget documents. Bob Keith and Sandy Davis of the Congressional Research Service and Bill Jensen and Bob Weinhagen of the Senate and House Legislative Counsel's office all deserve well-earned thanks.

Last, I would say to my colleagues in this Chamber, there is a big difference between compromising and being compromised. Each of us had to compro-

mise in some way to get this agreement. But not one of us is compromised by it. It is an agreement we can all be proud of. It is the right thing to do, and I thank my colleagues.

Mr. DODD. Mr. President, I rise to express my support for the budget reconciliation bill for fiscal year 1991.

The budget reconciliation bill is imperfect—but a major improvement on the budget summit agreement of October 7. The solid deficit reduction it provides, the clarification of Government priorities, and the fairness of burden sharing more than outweigh its flaws.

The reconciliation bill preserves the overall summit agreement on deficit reduction. It is the largest deficit reduction package ever considered by the Congress, including deficit reduction of some $40 billion in fiscal year 1991 and $490 billion over fiscal years 1991 and 1995.

As we all know, for the past month, we have faced a crisis—a crisis in Government, a crisis in the economy, and a crisis in confidence in the institution of Government itself.

Mr. President, I note that yesterday, the Treasury Department reported that the Federal budget deficit for the fiscal year that ended September 30, 1990, was $220.4 billion, the second highest ever. Last year's deficit reduction legislation projected that the shortfall would be $99.7 billion. Less than $2 billion of the change was due to additional domestic spending. The rest was due to a weak economy and increased spending on the savings and loan cleanup.

We are now paying the price for the excesses of the 1980's—the so-called supply side economics championed under the Reagan administration. The crisis we face today stems from two fundamental policy decisions made in the early 1980's at the insistence of the Reagan administration: huge increases in Defense spending and massive tax cuts for the wealthy. The gigantic deficit created by these two decisions is the major reason, although not the only reason, we have been in fiscal crisis for months.

Mr. President, we no longer can nonchalantly pile up huge deficits as we did in the 1980's. These deficits made us into a debtor nation, dependent on paying foreign investors high interest rates to keep Government running. The total national debt from the beginning of our Nation to 1980 was $1 trillion. From 1980 to 1987, it tripled to $3 trillion. Interest on the Nation's debt is now $180 billion—that's $500 million a day. Every day, our Nation must borrow $500 million. We borrow most of it from foreign governments.

Cutting the deficit is the only way to reduce the high cost of borrowing—to consumers and Government—without spurring inflation. It is the only way we can afford to meet new national needs without mortgaging our children's futures.

By passing the budget reconciliation bill now before us, we can once and for all begin erasing the Federal deficit that has plagued this country for the past 10 years and begin putting our Nation back on track.

Mr. President, the budget plan isn't perfect but it is a real beginning toward serious deficit reduction. Moreover, it also reflects some of the priorities for this Nation as a budget plan should.

We not only need to have the deficit reduced—we also must invest in the next generation.

In that regard, I would like to highlight a few of the improvements that have occurred since the budget summit agreement. I am particularly delighted that the bill incorporates a two-part approach to Federal assistance to meet the child care needs of millions of families across the Nation—a grant program to States fashioned by the Labor Committee and an expansion of tax credits developed by the Finance Committee.

As my colleagues know, a great deal of my time and energy, and a great deal of deliberation have gone into developing child care legislation. During the 1988 Presidential campaign, George Bush announced his support for child care. Everyone agreed that we needed child care legislation—but we lacked consensus on what that legislation should look like. On June 23, 1989—15 months ago—the Senate passed S. 5, the ABC bill, after 8 days of heated debate. Subsequently, the House passed its version of child care legislation, and since that time the Senate, the House, and the administration have debated the best way to meet the child care needs of the Nation.

Just recently, with the encouragement of the distinguished majority leader, for the first time, we reached agreement on a new and expanded Federal role in child care. The bipartisan agreement, embodied in this budget package, is a fair and balanced approach that will make quality child care more available and affordable.

I am also pleased that the budget plan includes a substantial improvement in Medicaid coverage, especially for poor children. The Medicaid Program also would be expanded to pay Medicare premiums for more elderly poor and provide home care for them.

Mr. President, I am also pleased about the greater fairness in burden sharing in this bill as compared to earlier budget plans and the budget summit. I had serious reservations about the tax provisions in earlier budget plans because of their regressivity.

By raising the top income tax rate for the approximately 600,000 highest income Americans from 28 to 31 percent, by expanding the earned income tax credit for the poor and by reducing the tax breaks for the rich, this bill significantly increases the progressivity of the package.

Finally, with respect to taxes, I am pleased that the package drops the provision of the summit agreement that called for a 2-cent-per-gallon tax on home heating oil, a tax that would have had an adverse impact on the citizens of the Northeast.

Mr. President, I do have some concerns about the package. One of these concerns relates to the Medicare Program. While I am pleased that the beneficiary reductions are considerably smaller than those in the summit agreement, I am concerned that the package retains the Medicare deductible increase and monthly premium increase.

On balance, Mr. President, the budget plan before us continues to have some flaws but is dramatically improved over the original budget summit. It is a budget plan that I can and will support.

We finally are in the homestretch of this grueling, months-long budget marathon. The finish line is in sight. Let's pass this budget reconciliation bill so that we can stop taxing everyone's patience along with everything else.

Mr. GARN. Mr. President, it would be a costly mistake for this Congress to adjourn without providing the Resolution Trust Corporation with the additional resources it needs to continue the job of closing insolvent thrift institutions and to continue the job of meeting the Government's commitment to insured depositors in those institutions.

Our Government has pledged its full faith and credit as backing for insured deposits. To renege on that commitment would be unthinkable. To renege would—among other things—almost assuredly cause a full-scale financial panic as the word of the U.S. Government could no longer be trusted anywhere.

Nor can we reduce the cost to taxpayers by not providing additional funds to the RTC before we adjourn. To the contrary, delay would substantially increase the burden taxpayers ultimately would be required to bear.

Delay in providing the needed resources would only force the RTC to delay closing involvent institutions that we all know must eventually be closed. Allowing those institutions to continue operating would only allow them to run up even larger losses that taxpayers would be stuck with.

Make no mistake about it: the RTC cannot continue its current rate of case resolution while waiting for the Congress to return next year to provide the additional needed resources. At its current level of activity, by the end of this year the RTC will have less than $2 billion left out of the $50 billion in loss funds provided last year.

In fact the RTC already has been forced to slow down its pace of case resolutions, given the uncertainty over whether Congress will act before adjournment to replenish the pool of

funds to cover losses. Unless Congress acts, case resolution will virtually cease by December 31.

The cost of delay was quantified by RTC Chairman Bill Seidman in a letter dated October 25, 1990. According to Mr. Seidman:

The estimated cost of delaying the resolution process is $250 to $300 million for a one-quarter delay and $850 to $950 million for a two-quarter delay. These estimated do not include other factors that could substantially add to the cost of delay. These factors include asset deterioration, deterioration of franchise value, and the effect that competition with insolvent institutions has on the cost of funds for marginally solvent institutions, possibly causing additional failures.

It is not as if Congress has not had ample warning that additional funds would be needed. As far back as May 23 of this year, Treasury Secretary Nicholas Brady in testimony before the Senate Banking Committee told us that additional funding would be necessary to enable the RTC to meet the Government's end of the agreement represented by Federal deposit insurance.

Just yesterday, Secretary Brady again wrote to the Congress saying: "I repeat the administration's urgent request that Congress provide adequate funds to the RTC."

Treasury has estimated that the RTC would need $50 billion in aggregate loss funds to continue operations at their current pace throughout fiscal year 1991, including about $10 billion in loss funds authorized and appropriated in 1989 but not yet spent. That level of spending is reflected in the fiscal year 1991 baseline of the congressional budget resolution which foresees $40 billion in additional loss spending for the RTC.

Treasury sent Congress three alternative suggestions for how the additional loss funds might be raised. In choosing among the Treasury alternatives, or some variation thereof, Congress must make three key decisions: First, whether to provide the RTC with sufficient funds to carry it completely through fiscal year 1991 or only part way; second, whether to continue to maintain the haircut on working capital borrowings established in 1989 that limits working capital borrowings to 85 percent of the estimated market value of the assets of seized institutions; and third, whether to authorize the RTC to tap $18.8 billion in questionable borrowing authority from the 1989 legislation.

Earlier this month, the Senate Banking Committee adopted a $57 billion package that would: First, provide the quantity of loss funds currently estimated to be needed for the RTC to operate through fiscal year 1991; second, keep the 15-percent haircut on working capital borrowings; and third, not authorize the RTC to tap the questionable borrowing authority.

The House Banking Committee subsequently adopted a package that would: First, only appropriate $10 billion in additional loss funds for the RTC; second, keep the 15-percent haircut; but third, provide for the RTC to tap the questionable borrowing authority.

Apparently the political reality is that legislation containing the full amount of money for the RTC that passed the Senate Banking Committee cannot pass the House of Representatives. Therefore, the package before the Senate today takes the House Banking Committee's approach but adds an additional $5 billion in appropriated loss funds for a net addition of $15 billion.

Mr. President, I think it would be preferably to provide the RTC with sufficient funds to operate through fiscal year 1991. Providing less may keep the RTC on a shorter leash, but it also complicated planning within the RTC and will lead to less efficient operation of the agency.

Nevertheless, if political reality in the House precludes us from taking the optimal course of action, I will support the compromise before the Senate today as a way of assuring that the operations of the RTC will not be forced to shut down by the end of this calendar year. I repeat: To allow that to happen would be a costly mistake for this Congress.

Mr. WARNER. Mr. President, my vote for the 1991 budget is the toughest vote in my 12 years in the Senate. But, in my view, Congress has to step up and make the very tough decision to pass this budget.

Although this budget raises taxes too much and does not cut spending nearly enough, there is no choice for Virginia.

The only alternative at this late hour is sequestration, which would be disastrous.

It would slash at least $100 billion across-the-board in Federal spending this year alone. In my judgment, Virginia would be among the top five States hardest hit in terms of the adverse impact upon our economy.

Virginia for decades has enjoyed the benefits of one of the largest Federal inputs to our economy. A sequester order would be devastating to the Commonwealth since we are home for so many Federal and military employees and house a very large number of Federal departments and agencies.

The Pentagon alone would absorb over $40 billion of a sequestration order which I view as totally unfair to the men and women serving in the cause of freedom overseas, particularly in the Persian Gulf.

PROVIDER SPECIFIC TAXES AND VOLUNTARY CONTRIBUTIONS

Mr. GRAHAM. It is my understanding that the Medicaid portion of the budget reconciliation bill contains a provision regarding provider specific taxes and voluntary contributions. This language is from S. 1878, a bill I introduced and which the Senator from Arkansas cosponsored, to statutorily protect States rights to use taxes and voluntary contributions.

The provision in the budget reconciliation bill would allow States which use taxes on providers as a part of the State Medicaid match to continue this practice. This would permit these taxes to be used as Federal matching provided that a hospital is not directly reimbursed for the tax.

Mr. PRYOR. That is correct.

Mr. GRAHAM. This measure would allow States, such as Florida, which assess hospitals 1.5 percent of net revenues for a portion of the State Medicaid match, to continue to do so. Florida does not directly reimburse hospitals for provider based taxes, clearly complying with this provision. Most importantly, this would enable the State of Florida to continue providing health care services to indigent patients.

I would like to thank Senators PRYOR and BENTSEN for their assistance with and understanding of this matter. I am very pleased that Congress decided to statutorily protect provider based taxes.

ABANDONED MINE LAND FUND REAUTHORIZATION

Mr. McCLURE. Mr. President, in order to meet reconciliation instructions, the Committee on Energy and Natural Resources and the House Interior and Insular Affairs Committee agreed to language which would reauthorize the abandoned mine land [AML] fund through 1995. In doing so, the committees adopted a modified version of H.R. 2095, a House-passed reauthorization bill. No companion bill exists in the Senate and the Committee on Energy and Natural Resources held no hearings on the AML reauthorization issue during the 101st Congress. Consequently, Members of the Senate have not had an adequate opportunity to develop a complete legislative record with respect to AML reauthorization legislation. In the interest of providing guidance to the Office of Surface Mining Reclamation and Enforcement [OSMRE] in implementing the reauthorization language approved by the conference committee, I would like to offer the following comments.

Current law—Public Law 95-87—establishes an abandoned mine land fund in the Treasury. Money from that fund is available only through annual appropriation by Congress to the Secretary of the Interior. Those basic provisions remain unchanged in H.R. 2095 as modified by the conference committee. However, section 402(g), which specifies the allocation process for the distribution of funds, comprises approximately half a page in current law and is designed to provide the Secretary of the Interior with the necessary discretion to carry out the purposes of the abandoned mine land fund. H.R. 2095 takes a few lines of that section and expands them to over two pages with lengthy but unclear specifics of how the Secretary of

the Interior is to allocate the fund. This detail seems to presume that all AML fees collected are available to the Secretary when, in fact, annual appropriations have never equaled annual income. In most years the annual appropriation has been less than annual income while in a few years the appropriation has exceeded income. Consequently, it is unclear as to whether the percentage allocations in the expanded version of 402(g) are to be applied to income, the annual appropriation, or the total balance of the fund at the beginning of the fiscal year. In my view, sufficient flexibility must be provided in applying these percentages to assure that there will be adequate funds available to carry our a reasonable emergency program and otherwise effectively administer the AML fund.

H.R. 2095, as modifed by the conference committee, makes the entire AML fund interest bearing. However, the House report to accompany H.R. 2095 indicates that all interest from the AML fund accrues only to the Secretary's share. This direction presupposes that there is no unappropriated State and tribal share balance remaining in the AML fund to accrue interest. However, the House report does not identify any new responsibility on the Secretary to fully distribute State and tribal share funds each year. Under H.R. 2095 itself, interest income is to be credited to the fund. In my opinion this means the entire fund, and I would except OSMRE to interpret this language similarly.

H.R. 2095 requires the Secretary to maintain an inventory of eligible lands and waters pursuant to section 404 and to provide financial and technical assistance to the States and tribes for updating the inventory. Financial support for this undertaking can be found under section 402(g)(5) as well as 402(g)(3).

Section 411 of H.R 2095 specifies that a State certify the completion of all coal-related problems prior to undertaking a noncoal reclamation program. Despite certification, nothing in this legislation prohibits a State from addressing any new coal-related problem if and when it arises.

Section 409 of the Surface Mining Control and Reclamation Act—Public Law 95-87—currently provides that voids, abandoned tunnels, shafts and entryways constitute a hazard to the public health and safety. These findings are equivalent to a priority 1 designation under section 403(a)(1) of H.R. 2095.

H.R. 2095 provides that a State may undertake a non-coal reclamation program following completion of all known coal-related problems. Nothing in this legislation directs a State to undertake reclamation of a site which is eligible for listing under the Comprehensive Environmental Response Liability and Compensation Act of 1980 [CERCLA].

Finally, H.R. 2095 provides that the Secretary of the Interior concur with a State's finding that all coal-related priorities have been achieved. Nothing in this bill changes the certification process utilizes under current law.

ON CHILD CARE

Mr. KENNEDY. Mr. President, this is a landmark day for the Nation's children and their working parents. After much negotiation, we have reached agreement to help move the Nation forward in meeting its growing child care needs.

This plan is long overdue. Every day more than 2 million children are left alone and unsupervised—and more than 3 million risk injury or even death in unlicensed day care homes. For too many years we have seen children subjected to unlicensed, unsafe and unstable conditions because their working parents, struggling to make ends meet, could not afford adequate child care. In a society as compassionate as ours, it is a tragedy that we have permitted this situation to exist.

The legislation before us today is a major step forward in solving the Nation's child care crisis. Under its provisions, child care will be more accessible and affordable, and minimum standards will be established by States to assure that it is available under conditions that are healthy and safe.

This $2.5 billion multiyear plan will assist children under the age of 13 whose family income is below 75 percent of the State median income. Seventy-five percent of the funds may be directed at increasing the availability, affordability, and quality of child care. The remaining 25 percent of the funds are reserved for important quality improvement activities and early childhood education and before- and after-school care services.

While provision of services is the primary purpose of the legislation, we believe that activities to improve the quality and availability of child care are critical aspects of this comprehensive legislation. We expect that States will use at least 10 percent of funds for quality activities such as providing training to child care staff, upgrading standards, and establishing resource and referral networks. States should ensure that every child has access to an affordable slot in a safe, licensed, high-quality family day care home or child care center.

To ensure an adequate supply of child care, States may choose to make grants and loans to providers to help them meet State standards, establish a revolving loan fund for family providers to make capital improvements, provide funds to local educational agencies to establish full-day, full-year child care and early childhood education programs, and create a State liability risk retention pool for child care providers who are having trouble finding affordable liability insurance.

We also encourage States to increase availability of child care by investing in public-private partnership activities to involve local businesses in offering child care benefits to employees through worksite programs or by contracting for slots with a nonprofit provider.

As Congress and the administration grapple with the budget, it is fitting that the Nation's children receive the priority they deserve. Our smallest voices often have the biggest needs. This play says that we have heard those voices and that help is on the way—for children and their parents.

I commend Senator MITCHELL for his leadership in bringing this legislation this far. Senator HATCH has worked long and hard to make the proposal bipartisan, and I am grateful to Senator DOLE and to the President for their cooperation and willingness to reach a consensus on the legislation. Most of all, Senator DODD should be commended for the tremendous leadership he has shown on child care over the past 4 years, and on all issues affecting the Nation's children throughout his career.

This plan recognizes that in spite of the controversies that arise in dealing with such issues, Congress and the administration can work together to address concerns that deeply affect our future. But, this is not a victory for Congress or the President, for Republicans or Democrats. It is a victory for America's children, and for working families across the Nation.

I urge my colleagues to support this proposal.

CHILD CARE

Ms. MIKULSKI. Mr. President, I am delighted that this body has demonstrated a commitment to America's children by including child care legislation in this year's reconciliation package.

Finally, we have acknowledged that millions of American children are in day care out of necessity—that single parents and two-career families have no choice but to place children in day care while they work full time trying to make ends meet.

Finally, we stopped talking about the Pentagon's playthings and high-tech bombers, long enough to deal with our children's playgrounds and preschool classrooms.

In my home State of Maryland more than half of all mothers with preschool age children work outside the home. Three quarters of a million kids under 12 compete for only 90,000 regulated day care slots. But until now, the Federal Government ignored those parents and their children.

Like most of us, I was afraid that child care was dead for this Congress. But, through hard work and determination we have taken the first toddler steps toward a 21st century child care system.

This is also an important step forward for America's employers. As we work to fight off a recession, we need all our resources—often the best person for the job is a parent. We need them working hard, and we need them

thinking about their job; not whether their children are safe.

This agreement is not perfect. There is not enough money for the working people who have been most squeezed by rising costs and flat wages. It is not the package we had such high hopes for a few months ago.

But we are giving America's moms and dads an opportunity to get their children into affordable, accessible, competent and safe child care programs.

For millions of working Americans, child care is a crisis they must deal with every single day. I am proud that we are working to help end that crisis. I am proud of our support for working parents and—most important—the children of America.

CHILD CARE PROVISIONS OF BUDGET RECONCILIATION

Mr. PELL. Mr. President, the budget reconciliation package contains provisions on child care which go a long way toward addressing the child care needs of America's families. As an original cosponsor of the Act for Better Child Care Services, in both this Congress and the 100th Congress, and as a conferee on the child care legislation that was approved by the Senate and the House, I am pleased that a compromise has been reached that encompasses the essence of our original legislation.

Our goal in crafting any child care legislation has been to increase the availability, quality, and affordability of child care services. The compromise reached goes a long way toward achieving these objectives. It addresses the need to increase the supply of available child care services and to ensure the quality of that care. The package does not go as far as I would like in the area of quality: in my view, tough, minimum standards for safe, quality care should be mandatory. But the compromise does take steps toward ensuring that all children in day care, in every State, are safe.

The compromise also allows for significant parental choice in child care services. The parental choice provisions contained in the grants section, together with the tax credit provisions, help ensure that families can make the child care choices which best address their particular needs. Providers include community-based care, home care, and relative care. While I would have preferred that the package include a greater role for school-based care, the compromise does acknowledge the important role of schools in providing both before and after-school care.

Mr. President, in my home State of Rhode Island, there are an estimated 13.000 children under 5 who live in poverty. Subsidized child care, for children of any age, is available to only about 1,900 children. Any assistance that these children and their families can get is desperately needed; any assistance that we can provide to them—and to other children and families in need—is long overdue. As proposed, this compromise legislation will bring about $2 million to Rhode Island in fiscal year 1991. For that kind of assistance, we in Rhode Island can surely accept slightly less than we had hoped for.

Mr. President, the compromise contained in the reconciliation bill will not solve the child care needs of Rhode Island or the Nation. But it will mark a strong beginning to the Federal Government's commitment to assisting families, businesses, and local governments address the changing needs of today's working parents, their children, and future generations.

Because of my disapproval of the budget provisions of this legislation, I voted against it. However, I did want to indicate my strong support for the child care provisions and my hope that those provisions will become law.

FISCAL YEAR 1991 RECONCILIATION BILL

Mr. LEAHY. Mr. President, one of the most depressing aspects of this debate is how inevitable it was that we are here today. I did not know anything special when I voted against the Reagan Deficit Creation Act of 1981—simply how to add and subtract. Mostly subtract.

Of the 11 Senators in this body who resisted fierce pressure from the Reagan administration and the American people to approve this plan, 4 have retired. Seven of us remain.

There are even fewer members of the Reagan administration left from those days. Richard Darman, head of the Office of Management and Budget, was around back then, serving as a White House aide.

David Stockman, his predecessor at OMB, reports in his book that on the eve of congressional passage of the tax package in 1981, Richard Darman said to him: "I don't know which is worse, winning now and fixing up the budget mess later, or losing now and facing a political mess immediately."

He won back then. But we are not trying to fix up a budget mess today. We are dealing with an economic disaster.

Ronald Reagan was quite a storyteller. Back when he was running for President in 1980 he used a vivid example about our national debt, then roughly $1 trillion. The best way to illustrate $1 trillion, he used to say, was to imagine a stack of $1,000 bills 67 miles high. Even though most of us had never seen a $1,000 bill, we got the point.

President Reagan promised to do something about the national debt, and he did: He tripled it.

Our national debt now hovers around $3 trillion.

This year we will pay $260 billion in interest alone on our Federal debt. Enough to pay for all domestic discretionary spending programs—the phrase used to describe money for education, roads, bridges, law enforcement, cleaning up lakes, the air and so many other important programs.

By honest accounting methods, our Federal deficit should be well over $300 billion this year alone. Ironically, this year we will have $325 billion less in revenues because we passed the Reagan tax package 10 years ago.

This disaster didn't sneak up on us. The Reagan plan was put in place—the huge tax cuts, the huge Pentagon increases—and the magic of the marketplace was left to work its will.

And the deficits came.

By 1983, our country was staring a $200 billion deficit straight in the eye. We needed a bold plan. All we got was happy talk about growing our way out of our economic woes.

That year I was among 1 of 17 original supporters of the bold budget freeze plan put forth by Senator HOLLINGS of South Carolina. I voted for similar freezes over the next 2 years.

These budget freezes would have caused pain—but it would have been shared pain. The Hollings freeze amendments, while gaining support over the years, also fell victim to the 1984 Presidential election cycle, where serious, painful deficit reduction efforts had to be put off until after the voters went to the polls.

President Reagan campaigned for reelection in 1984 telling us it was morning in America. This despite $200 billion annual deficits "as far as the eye can see," according to his erstwhile budget director, Mr. Stockman. Former Vice President Mondale was vilified during that campaign for having the courage to suggest that some revenues would have to be raised to close our budget gap.

But huge deficits were not the only economic legacy of the Reagan administration. Gaps between rich Americans and poor and moderate income Americans got worse and worse.

By 1988, the richest 5 percent of American families received 17.2 percent of the total national family income—the highest level since 1952. The poorest 20 percent of American families received only 4.6 percent of national family income—the lowest figure in 36 years.

Homelessness in America grew in the 1980's. And so did the scourge of hunger.

Some Senators tried to do something about this income disparity during the debate over tax simplification in 1986. Senator MITCHELL offered an amendment during the tax reform debate to establish three tax rates of 14 percent, 27 percent, and 35 percent. I saw this amendment as tax relief to middle-income Americans—and a preemptive strike against a tax package that could have asked more of wealthy Americans than it did.

Unfortunately, the Mitchell amendment was defeated 71 to 29.

The 1988 Presidential campaign of then Vice President Bush further put off the day of reckoning with our Federal deficits. His "Read My Lips" slogan made an arresting sound-bite,

but it did nothing to help him govern once he was elected. And it once again put off the day to face up to our spiraling debt until earlier this year.

Mr. President, what we have before us today is the product of one of the most frustrating and unseemly exercises in budget brinkmanship in the 16 years I have been here. But the product is something I will grudgingly support.

The budget reconciliation bill before us is better than the originally leadership deficit package that the House overwhelmingly rejected 2 weeks ago. The tax on home heating oil is gone. The huge Medicare premium increases have disappeared. And the revenues are more evenly distributed than the regressive tax package contained in the President's original deficit reduction plan.

This package is not without flaws—not by a long shot. The defense figures are too high. The economic assumptions are too rosy. And some of the budget process reforms place too great a harness on important domestic programs.

I would like to take a few minutes to talk about major components of the package before us.

MEDICARE

For the elderly, the final budget reconciliation bill is a major improvement over the original summit plan and the Senate-passed bill. During debate on the budget, I expressed my concern that the increased out-of-pocket Medicare costs in the Senate bill would price Vermont's large low-income elderly and disabled population out of the health care system. For the majority of older Vermonters, a $75 increase in their yearly deductible and a 20 percent charge on the cost of laboratory tests would have been too great a burden. That is why I voted for amendments offered to the Senate bill that would have reduced the burden on seniors.

The bill before us now rejects the summit agreement's harsh and unfair charges to beneficiaries. It does ask seniors to share in the budget reduction effort, but in a much fairer way. There is a $25 increase in the yearly deductible, but there is no requirement that seniors pay any part of their laboratory costs. And for elderly and disabled persons living at or near the poverty line there are some protections against the new Medicare charges.

The negotiators of this bill deserve praise for some policy changes that will protect seniors and save States and the Federal Government money.

A new Medicaid provision requires drug manufacturers to offer prescription drugs to State Medicaid programs at the lowest price they charge any other bulk purchase in the State. This change reclaims valuable Medicaid dollars from drug manufacturers and helps bring the skyrocketing cost of prescription drugs under control.

Earlier in the year I cosponsored legislation offered by Senator DASCHLE to reform an industry that for too long has exploited the fears of senior citizens by selling duplicative and expensive Medicare supplemental insurance, or Medigap policies. I am pleased that these stricter controls on Medigap policies are included in the reconciliation package.

DEFENSE

This is among the most disappointing parts of this package. This reconciliation legislation inflicts pain in almost every sector of our society—except the Pentagon. Sweeping changes have taken place over the last year. The Berlin Wall is down, Germany is reunified and the Warsaw Pact is a defunct military force.

Looking at the defense numbers in the reconciliation bill—one might think Congress had its head in the sand for the past year. Serious budget cuts didn't reach the doors of the Pentagon.

The budget conferees agreed on defense spending levels that are significantly higher than the reductions called for in the budget resolution proposed by the Senate Budget Committee earlier this year. Defense outlays in fiscal year are $70 billion higher than the historical peacetime average.

On Friday, the Senate gave final approval to the conference reports on the Defense authorization and appropriation bills. I was deeply concerned that Congress failed to kill a single major weapon system. Several programs are bled but none are stopped outright.

Mr. President, the only saving grace about defense spending in this agreement is that the defense figures are only caps and not floors. I supported amendments to the defense spending bills that would cut billions of dollars in programs. I feel strongly that Congress must make deeper cuts in defense during the next session.

AGRICULTURE

As chairman of the Agriculture Committee, my task to meet the deficit reduction targets was among the most difficult I have faced since coming to the Senate. I knew severe cuts in agriculture programs will inflict real pain throughout rural America.

Between 1985 and 1990, $80 billion was spent on agriculture. Under the farm program passed by the Senate, we were able to hold the projected costs to $54 billion over the next 5 years. To make matters worse, our budget reconciliation instructions required by the Agriculture Committee to cut an additional $13.4 billion. This bill along with the 1990 farm bill will limit spending on farm programs to about $40 billion for the next 5 years.

Make no mistake: These are real cuts. Agriculture, during the next 5 years. will spend half of what it spent in the past 5. I know of no other program in the entire Government facing cuts of this size.

These cuts are not numbers on a piece of paper. They will be painful to our farmers, they will hurt. But we made every effort to share the pain fairly. Each commodity will take its fair share of the pain.

I would like to note, Mr. President, that I did vote for the amendment offered by the Senate from North Dakota, [Mr. CONRAD], that would have increased the tax rates of the wealthiest taxpayers while decreasing the levels of cuts that are farmers are being asked to absorb. I was disappointed that this amendment was defeated.

TAXES

The bill we have before us today has come a long way in restoring progressivity in our Tax Code. No longer will the poor of this country be asked to pay the highest percentage to reduce our deficit—nor will the burden be placed squarely on the middle class.

This package cuts the gas tax back to 5 cents a gallon. The tax on home heating oil is gone. Both of these original provisions would have been particularly tough on rural Vermonters.

The original summit agreement would have increased taxes by 7.6 percent for those families earning less than $10,000. Under the conference plan the tax burden on these families would be cut between 2 and 3 percent. And according to the Joint Committee on Taxation, households with incomes under $50,000 a year would face an average tax increase of 2 percent or less. Eighty-nine percent of the Vermont tax returns filed in 1988 would fall under this category.

I voted for amendments during the Senate debate to incorporate many of the progressive tax provisions from the Democratic House proposal into the final budget agreement. I am pleased to see that the conferees adopted many of them.

By raising the income tax rate to 31 percent, phasing out personal exemptions, limiting deductions for taxpayers earning over $100,000 and increasing the alternative minimum tax, this bill ensure that those with the ability to pay contribute to the deficit reduction package. The tax share of the wealthiest families would be raised by 6.3 percent.

The conference report has produced a package that begins to reverse the tax trend that started in 1981 with the Reagan tax cuts.

Mr. President, in May 1981, I made a speech on the Senate floor against the original Reagan budget plan.

I ask unanimous consent that a copy of my speech be included at the conclusion of my remarks.

That day, I sensed we would have to pay the price for the economic plunge our country embarked on.

Today is the day we start to pay the bills. The process has been ugly. But

this surely a step toward fiscal responsibility.

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

Mr. LEAHY. Mr. President, I will oppose the budget plan before us today because in my judgment, it is not equitable, it is not balanced in its priorities, and it is not economically sound.

A consensus has formed in favor of reduced Government spending, reduced Government regulation, and lower taxes to promote thrift and business investment. It is a consensus shared by the American public, by Congress, and by President Reagan.

This consensus was shaped by a common desire for an improved economy, for lower inflation, new job opportunities and greater economic security. It is held together by a belief that spending cuts and selective tax cuts will improve the economy. It is held together because the American public trusts Congress and trusts the President to make necessary cuts in a just and sensible way.

Mr. President, I must oppose this budget because it breaks this public trust and the consensus that I joined. It violates the rules of equity and fairness. It lacks in vision and planning for the future. It is short on compassion. And worse, it promises, in my judgment, higher inflation, fewer jobs, and less economic security for many Americans.

Earlier this year, I supported the budget reconciliation resolution to cut the budget by some $36 billion this year alone. I favor substantial cuts in Federal spending because I believe a balanced budget is one of the many steps that must be taken to reduce inflation and interest rates.

Unfortunately, the budget before us today proposes huge budget deficits for the next several years—deficits which the Congressional Budget Office estimates may exceed $200 billion by 1984.

What do the money experts think?

Expectations of higher inflation have again pushed the prime lending rate near 20 percent—this despite predictions by the Reagan administration that those rates would soon fall below 10 percent.

In the last 10 days of trading on the New York Stock Exchange, the Dow Jones average of 30 industrials has plummeted 60.61 points.

Mr. President, these developments are not votes of confidence for the Reagan economic plan. A close look at the budget plan before us reveals some troubling facts.

There is strong reason to believe that huge budget deficits will persist throughout the remainder of the President's term in office.

This budget assumes real economic growth of between 4 and 5 percent each year beginning this fall. It assumes inflation of 8.3 percent and falling, and interest rates of 12 percent and falling, also beginning this fall. And it assumes that unemployment will decline to 7.2 percent next year and will continue to fall over the next several years. These optimistic forecasts are greatly at odds with most private economic forecasters. If the economy does not perform the hoped for miracles, the budget deficit could swell by tens of billions of dollars.

Over the next 3 years, this budget proposes $170 billion in increased defense spending—more than the entire fiscal year 1981 defense budget—$176 billion in domestic spending cuts, and tax cuts of $293 billion. Unless the untested "supply-side economics" theory works miracles, budget deficits of nearly $300 billion or $100 billion each year may be the result.

Even if the optimistic economic forecasts and theories bear themselves out fully, there is still reason to believe that this budget will not be balanced in 1984.

On top of the rosy forecasts, this budget relies on savings of $81 billion from "additional cuts not yet proposed, assumed passage of legislation to increase Presidential impoundment powers, assumed 1 percent cuts in waste, fraud, and abuse" and other sleights of hand to bring it into balance.

Mr. President, this budget is just plain fiscally irresponsible. It places commitments to a careless and wasteful defense buildup and tax handouts to the wealthy above the fight against inflation.

The huge budget deficits likely to result are not the only inflationary feature of this plan.

Few economists will argue that the $54 billion Reagan-Roth-Kemp tax cut proposed for next year, written entirely in red ink, will not be inflationary. Coming at a time of already high inflation, it is virtually certain to fan, not dampen, inflation.

This budget overlooks the major role that skyrocketing energy costs and oil import bills continue to play in our present inflation. To cut energy conservation and alternative energy development budgets by roughly two-thirds is pure folly.

Not only do I oppose the economic policies rejected by this resolution, Mr. President, but I believe many of the specific spending cuts it assumes are inequitable and shortsighted.

The combined effect of cuts in housing, highway and EPA sewage construction moneys, regional and community development moneys, and large cuts in Farmers Home, SBA, and HUD lending programs may prove devastating to Vermont's economy and the economies of other rural States and chronic money shortages.

It is false economy to slash assistance for preventive health care and education assistance. Greater costs to society will surely follow.

All of our major nutrition programs—school lunch, food stamps, and the special program for pregnant women, infants, and children (WIC)—will be dramatically reduced if Congress enacts this budget. While I support efforts to cut federal spending, even in the nutrition area, these cuts are pennywise and pound-foolish.

Mr. President, the budget cuts for child nutrition may achieve immediate savings, but the long-term costs for health care and education will far outweigh the short-term benefits. According to Vermont school officials, these nutrition cuts may force many elementary and secondary schools to close down their school lunch program, a program which has been in existence since 1946. If the cuts are not modified, most school lunch programs in rural areas will close in 1992.

A balanced mix of all the domestic energy sources is needed to end the U.S. dependence on foreign oil. The mix must include fossil fuels, solar, hydro, and other renewable energy resources as well as a strong conservation effort. The energy spending proposals reflected in this budget are not balanced. Cuts of roughly two-thirds have been proposed for conservation programs, for solar and renewable energy source programs, and for fossil fuel programs in fiscal year 1982. At the same time, large subsidies for synthetic fuels and a 33-percent increase in funding for nuclear power programs were left in place.

These cuts ignore the realities of today's energy markets, the success of renewable energy programs and the success of conservation efforts in Vermont and elsewhere. Funds for conservation and renewable energy source programs should be restored.

Major reductions are proposed in Federal support for mass transportation in rural and urban areas. These cuts threaten the future of the entire Amtrak passenger rail system, including Vermont's "Montrealer". While it may be possible for Vermont's four rural bus lines in the areas surrounding Rutland, Bethel, Newport, and Bennington to absorb some budget cuts, the Reagan administration proposal which is tied to the cuts could force all four bus lines to end or seriously reduce their services.

Reduced funding for mass transit and arbitrary and urban-biased restrictions on the use of mass transit funds contradict our Nation's need to reduce the consumption of foreign oil through more efficient transportation services.

There are also areas where I believe further cuts could and should be made, and where proposed spending increases go too far.

We can and should save millions of additional tax dollars by eliminating water projects that are not economically justified. To stop construction of the Tennessee-Tombigbee and Dickey-Lincoln projects would save well over $2.5 billion. Halting these two projects this year would save $200 million, an amount roughly equal to the entire Federal payment to the State of Vermont.

Another area in which to achieve budget savings is the myriad "advisory commissions." They are easy to set up, but are providing considerably more difficult to end. For example, the Franklin Delano Roosevelt Memorial Commission was established in 1955 to create a suitable memorial for FDR. It was set up despite the existing memorial in downtown Washington. and against the wishes of the Roosevelt family. While the commission's $500,000 annual budget may appear small, the total spent to fund over 800 such "advisory commissions" is substantial. The Leahy report in 1976 on this abuse of taxpayers' dollars has resulted in many of them being discontinued, but the job is far from complete.

Finally, we must recognize that America's security is based on a balance which must be struck among effort to address all of our national needs—defense, economics, energy, health, and so on. Indiscriminate defense spending destroys this balance and is precisely the same thing as indiscriminate Government spending in any other area—waste. America cannot afford waste in any program.

To give the Pentagon, or any Federal department, $255 billion without sufficient guidance and accountability is both shortsighted and irresponsible. We must question the need for the full $170,000,000,000 defense spending increase which has been proposed over the next 3 years. We must question where and how each dollar will be spent. Before we commit billions to any new weapon program, we must make certain that there are ample funds for fuel, training, operations, maintenance, and personnel in the Department of Defense.

Mr. President, I commend President Reagan for acting swiftly and effectively in presenting his economic plan. I share his commitment to control further the growth of Government spending, to provide selective tax cuts for business and individuals, and to continue to simplify and reduce the cost of Government regulation.

In the spirit and interest of the board public support which I believe exists for each of these goals, I believe we should reject the budget plan before us today. We should reject it in favor of a plan which promises an end to huge Federal budget deficits. This plan does not.

We should reject it in favor of a budget package which assumes a modest, carefully targeted tax cut which Government can afford. This budget will place us billions and billions more into debt.

Finally, we should reject this plan in the interest of a budget which requires equal sacrifice and offers equal reward to the different regions of the country and to people of differing economic means.

NEW JERSEY MEDICAID RESPITE CARE DEMONSTRATION PROJECT EXTENSION AND MEDICAID CHILDREN'S HEALTH EXPANSIONS

Mr. BRADLEY. Mr. President, I am pleased that the reconciliation bill now before us extends the New Jersey Medicaid respite care demonstration project for another 2 years. This means that $4 million in Federal funds will flow to New Jersey to continue this valuable program for the next 2 years.

The Senate Aging Committee recently held two hearings on the Medicaid respite care demonstration project at my request. I know first-hand about the value of this program for many New Jersey families.

Mr. President, the demonstration project was originally intended for a full 4 years beginning in 1986. Delays in implementation have meant that it will only have provided services for 2 years before the expiration of the funding. A full scale evaluation of the project is in progress through the State University of New Jersey at Rutgers. The program deserves a full 4 years of operation before meaningful conclusions can be drawn. It is my hope that the program will serve as a blueprint for a national network of caregiver support under the Medicare Program. This bill, therefore, provides an extension for the respite care demonstration project for an additional 2 years.

Mr. President, the stories that I heard from both caregivers and providers of respite services moved me deeply. I am more convinced than ever of the need for supporting the enormous network of loving family caregivers who provide the overwhelming majority of care for disabled Americans in the home and the community. The New Jersey respite care project serves nearly 2,000 families a year. These are families who opt to keep their disabled members at home despite extensive sacrifices. One woman with three children spoke of her resolve to keep her mother with Alzheimer's disease at home with the family. Respite care allows her family to spend two Saturdays a month together in activities that are focused on their children. Attending her sons' baseball game or a family outing are activities that the Wagenblast's cannot take for granted. Respite care brings a semblance of normalcy to their lives and allows them to continue to love and care for their elder member in the way that feels right to them.

Mr. President, I am also pleased that the reconciliation bill contains some of the provisions of the Medicaid Infant Mortality and Children's Health Act of 1990. The reconciliation bill amends the Medicaid Program to require States to provide health care coverage for children up to age 18 from families living at or below 100 percent of the poverty level.

Mr. President, for the past few years we have taken several steps to address a problem that can only be characterized as a national disgrace. This proposal takes us one step further in attacking our failure to protect the lives of children in America.

As we watch the amazing changes that are overtaking the world today, I am more and more convinced that the test of our leadership in the world will be the example we set in providing for the human needs of our own people. Our record on how we treat our children in America is less than exemplary. It is unacceptable that in America today, infant mortality is higher than in all other industrialized nations. More children die in America before the age of five than in East Germany and Singapore. It is also intolerable that our country, which pioneered the development of vaccines, should have a childhood immunization rate among non-white Americans which ranks behind 48 other countries including Albania and Botswana. A country that can put men on the Moon and can dream of sending men to Mars can surely find ways to add ounces to the birthweight of newborns and to provide basic healthcare to its children.

Mr. President, last year Congress provided medical care to poor children under the age of 6 up to 133 percent of the Federal poverty level. This year, with this bill, we will be phasing in, over the next decade, coverage for children from age 7 to 18 up to 100 percent of the Federal poverty level. This will mean that hundreds of thousands of poor children without health coverage—about 40,000 in New Jersey—will gain coverage by Medicaid.

Our children are our future, Mr. President. Our greatness as a nation is fully diminished by our reluctance to provide basic health care to our children. I am pleased that we are taking steps to redress this glaring omission.

CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 1990

Mr. DOLE. Is it the Senator's understanding that for sectarian child care providers which do not fall within the scope of section 658N. (a)(4), section 658N. (a)(1)(B) is intended to control with respect to the ability of a sectarian organization to require that employees adhere to the religious tenets and teachings of that organization?

Mr. DODD. That is correct.

Mr. DOLE. Is it the Senator's understanding of congressional intent under section 658N. (a)(2)(B) and section 658N. (a)(3)(B) that the term "organization" should be interpreted to mean, not only an organization in the same geographic location as the provider, but also any parent organization which owns or operates that provider?

Mr. DODD. The Senator is correct.

Mr. DOLE. Is it the Senator's understanding of congressional intent that inherent in the definition under section 658P. (2), is the intention that the State shall not restrict parental choice by limiting the range of providers from which parents may seek child care using certificates as payment, except as specifically provided for in this act?

Mr. DODD. That is the intent.

VETERANS PROGRAMS

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veteran's Affairs, I rise to comment on title VIII of the conference report on H.R. 5835, the fiscal year 1991 budget reconciliation measure.

Title VIII contains provisions to comply with instructions contained in section 4(c)(10) of House Concurrent Resolution 310, the concurrent resolution on the budget for fiscal year 1991, requiring the Committee on Veterans' Affairs to report changes in laws within the committee's jurisdiction sufficient to reduce outlays for veterans' programs by $620 million in fiscal year 1991 and a total of $3.35 billion during fiscal years 1991-95.

Pursuant to section 4(a) of the budget resolution and action of the committee at an October 12, 1990, meeting, the Committee on Veterans' Affairs later the same day submitted to the Budget Committee legislation recommending the required reductions. Estimated savings from that legislation would have exceeded the 5-year total required savings of $3.35 billion by over $2.7 billion, producing total savings of $6.059 billion in outlays during fiscal years 1991-95.

Mr. President, title VII of the bill contains provisions that would make changes in laws relating to VA compensation and pensions, health care, educational and vocational assistance, home loan guaranties, and burial benefits, and miscellaneous provisions. The Senate and House provisions and conference agreement are spelled out in the joint explanatory statement accompanying the conference report. In brief, these provisions would:

COMPENSATION AND PENSION

First, in section 8001, suspend payment of service-connected disability compensation to an incompetent veteran without dependents whose estate exceeds a value of $25,000 and resume compensation payments when the value of the estate reaches $10,000. Veterans would receive a lump-sum payment of withheld compensation 90 days after being found competent. Section 8001 would expire on September 30, 1992.

Second, in section 8002, eliminate the presumption of permanent and total disability for veterans over age 65 for purposes of pension eligibility and provide a presumption of permanent and total disability for veterans of any age who become unemployable as a result of disability reasonably certain

to continue throughout the life of the disabled person. VA regulations currently provide that nonworking veterans aged 55 to 59 are considered permanently and totally disabled if they have disabilities rated 60 percent or more or are 60-64 years old and rated at least 50-percent disabled. The committee, and the conferees on this provision, expect that VA would extend this system of presumptions for veterans age 65 and older, and the CBO savings estimate is based on this expectation.

Third, in section 8003, limit monthly pension payments to $90 for Medicaid-eligible recipients of VA pension who are in nursing homes, other than State veterans homes, that participate in the Medicaid Program. Section 8003 would expire on September 30, 1992.

Fourth, in section 8004, eliminate dependency and indemnity compensation and pension benefits for surviving spouses who have remarried and again become single and for married children who again become single.

Fifth, in section 8005, require that the fiscal year 1991 cost-of-living adjustment for disability compensation and DIC be rounded down to the next lowest dollar, that the COLA not take effect until January 1, 1991, and provide for the delayed December 1990 increase to be repaid with the regular monthly payment for January 1992.

HEALTH-CARE BENEFITS

Sixth, in section 8011, authorize VA to bill third-party insurers for the cost of health care provided in connection with nonservice-connected conditions of veterans who have service-connected disabilities; establish the Medical Care Cost Recovery Fund [MCCRF] to receive collections from billing third-party insurers for certain health-care services and from copayment by veterans for VA-furnished care and medications and to pay the administrative costs of these collection activities, including the costs of 300 full-time equivalent employees [FTE] in addition to those currently engaged in billing and collection efforts; and provide that collections in excess of the administrative costs would be paid from the MCCRF into the Treasury. The authority provided by section 8011 to collect from third-party insurers would expire at the end of fiscal year 1993.

Seventh, in section 8012, require payment of $2 for each 30-day supply of medication dispensed by VA for the care of nonservice-connected conditions of veterans who do not have service-connected disabilities rated 50 percent or more disabling. The medication copayment requirement would expire on September 30, 1991.

Eighth, in section 8013, modify health-care categories and payment requirements by: First, eliminating the distinction between the current B and C categories; and second, requiring all veterans other than category A veterans to make payments of $10 a day for inpatient care—in addition to a payment equal to the Medicare annual deductible for the first 90 days of care in a year, plus half that amount for each subsequent 90 days of care in the year, $5 a day for nursing home care—in addition to a payment for each 90 days of care equal to the Medicare deductible; and $16 per visit for outpatient care—with no cap. The amendments made by section 8013 would expire on September 30, 1991.

EDUCATIONAL AND VOCATIONAL ASSISTANCE

Ninth, in section 8021, eliminate vocational rehabilitation benefits for veterans with disabilities rated 10 percent or less.

HOME LOAN GUARANTIES

Tenth, in section 8031, allow lenders to file guaranty claims for manufactured-home loans in default upon the lender's receipt of the VA appraisal of the resale price of the manufactured home.

Eleventh, in section 8032, increase by 0.625 percent the fees for VA-guaranteed home loans closed before September 30, 1991.

BURIAL BENEFITS AND GRAVEMARKERS

Twelfth, in section 8041, limit the VA plot allowance—$150 paid on behalf of deceased veterans who are not buried in a National Cemetery—to those who are eligible for a burial allowance—generally veterans who were receiving VA pension or disability compensation at the time of their death. The plot allowance would continue to be paid for veterans buried in State veterans cemeteries.

Thirteenth, in section 8042, eliminate the headstone allowance, which is a payment in lieu of a VA-furnished headstone or gravemarker. The payment is based on VA's average wholesale cost for headstones and markers—currently $87—and is paid on behalf of deceased veterans who are not buried in a National Cemetery.

MISCELLANEOUS

Fourteenth, in section 8051, allow use of certain Internal Revenue Service and Social Security Administration data to verify veterans' income for purposes of eligibility for certain VA benefits. Section 8051 would expire on September 30, 1992.

Fifteenth, in section 8052, eliminate compensation for the secondary effects of willful misconduct or the abuse of alcohol or drugs.

Sixteenth, in section 11053, require disclosure of Social Security numbers for applicants for certain VA benefits and require VA to conduct regular matches of Social Security and State data on deaths with certain VA beneficiary data in order to identify erroneous payments being made to or for veterans and other beneficiaries who have died.

DISCUSSION

Mr. President, I am especially pleased that, with one exception, the conference report contains the expiration dates that I had included in the legislation I proposed to the committee for the Senate reconciliation bill, S. 3209. I advocated these so-called sunset dates in the committee markup on October 12, 1990, as means of ensuring that the reductions in veterans' programs were not required to exceed unfairly what was required in reconciliation and that the committees could monitor closely some of the provisions presenting the greatest potential for adverse effects on veterans. Without the expiration dates, Congress would have been unable to terminate these cuts without including offsetting savings in veterans' programs. The conference report restores all of the sunset dates I had initially proposed for provisions that will affect veterans directly.

Mr. President, the one provision that will expire later than I had advocated is the provision granting VA expanded authority to collect from third-party insurers for all nonservice-connected health care provided to veterans. It is reasonable to expect that this provision will be extended beyond the September 30, 1993, expiration date. If, for example, a future budget resolution instructs our committee to produce further reconciliation savings or revenues, I would support extension of this provision to comply with such instructions.

There are very few provisions in this package that I would recommend in the absence of reconciliation requirements and the great need to reduce the Federal deficit this year and in coming years. In making these required cuts, however, I, along with others on the Committees on Veterans' Affairs in both bodies, have kept in mind the special debt our Nation owes to veterans and we have done my best to minimize the adverse impact of this measure on veterans and their families.

THE 1991 IRS REVENUE INITIATIVES

Mr. GLENN. Mr. President, the Treasury appropriation bill considered in the Senate just a short time ago funds a series of new revenue initiatives directed toward improving both tax collection and enforcement activities of the Internal Revenue Service [IRS]. In August 1990, the Governmental Affairs Committee heard testimony from IRS Commissioner Goldberg, General Accounting Office representatives, and others concerning the severe problems in tax administration now facing the IRS. Uncollected taxes have grown dramatically in the past decade—expected to be near $100 billion by fiscal year 1992. The increasing age of the accounts, the staff shortages which prevent IRS from collecting many smaller accounts, and the increasing amounts written off due to the expiration of the statute of limitations all demonstrate just how serious a problem confronts IRS.

At the outset I want to make clear that the testimony before the Governmental Affairs Committee has convinced me that we need to act right

now to greatly strengthen IRS tax collection activities. A fair and efficient tax administration system is a national asset that we cannot allow to fall into disarray. As a result of my concern about strengthening IRS tax collection activities, I offered an amendment to the fiscal year 1991 Treasury, Postal Appropriations Act to increase the IRS law enforcement account to provide $55 million in additional funding for 1,050 revenue officers. While my amendment was rejected largely on a procedural basis—the reluctance to waive the Budget Act to extend budget authority and outlay limitations—I believe that the attention focused on this issue played an important role in the IRS appropriation increase contained in the present bill. I am gratified that today's bill sets aside these budget limitations that worked against my initial amendment and provides IRS more resources to collect desperately needed additional tax revenues.

The $191 million made available to IRS by this bill will fund over 3,000 additional enforcement and collection personnel. IRS estimates that these additional personnel will generate added revenues of over $500 million in 1991 and about $5.7 billion over 5 years. Of course there will always be disagreements about revenues expected to be generated by additional staffing resources. I understand the Congressional Budget Office has estimated that the 5-year return will be closer to $4 billion than $5 billion. In my view, even if one significantly discounts current IRS revenue estimates, there is no doubt that these employees will pay for themselves in the first year they're employed, and every year thereafter.

The revenue initiatives in this bill are a crucial step in preserving the integrity of this Nation's tax administration system. In recent years uncollected taxes have risen to unacceptable levels while the "tax gap" has skyrocketed in the face of insufficient enforcement efforts. The personnel increases funded in this bill begin the process of restoring collection and enforcement programs to more creditable levels. Over 2,000 staff will be added in the tax collection and the examination programs as well as another 1,000 staff to several monitoring activities. I have no doubt that even more staff will be needed in future years and I am confident that we in the Congress will continue to provide IRS the staff resources necessary to administer a strong and efficient tax system.

In addition to augmenting IRS staff, other steps need to be taken to strengthen IRS tax collection program. In testimony before the Governmental Affairs Committee, Commissioner Goldberg outlined a series of management steps IRS is taking to more effectively collect unpaid taxes. IRS is also embarked on a long term computer modernization program. This program is absolutely essential to provide the capacity to process the anticipated levels of tax data in future years. Perhaps even more importantly, the promise of this modernization program is its potential to provide data in ways and at the times needed that will greatly increase the productivity of IRS staff. I firmly believe the successful introduction of a modern capable computer system will go a long way toward cutting back the errors and inefficiencies that plague today's system.

Mr. President, our Nation's tax collection system needs help. The Treasury appropriation bill makes a real beginning in making progress in this area.

AMENDMENT TO EXTEND STATUTE OF LIMITATIONS FOR COLLECTION OF BACK TAXES

Mr. GLENN. Mr. President, the reconciliation bill we are considering today extends the statute of limitations for collecting delinquent taxes owed the IRS from 6 years to 10 years. I believe this is an important step in enhancing the IRS enforcement effort, and raising important revenues which everyone agrees are due and owing the Government.

In August 1990, the Governmental Affairs Committee heard testimony from IRS Commissioner Goldberg, representatives from the General Accounting Office and others concerning the severe problems in tax administration now facing IRS. The inventory of delinquent tax cases has grown dramatically in the past decade—expected to be near $100 billion by fiscal year 1992. Moreover, the IRS reports that the amount of delinquent taxes that is no longer available for collection because the 6-year statute of limitations has expired has risen from about $600 million in 1983 to about $2.1 billion in 1989. Senator LIEBERMAN introduced a bill (S. 3165) to extend the statute of limitations for collecting assessed taxes from 6 to 10 years; I was an original cosponsor of that bill. Senator LIEBERMAN and I then successfully offered this legislation to the budget reconciliation bill on the Senate floor.

Extending the statute of limitations will raise additional revenues. In this time of persistent and enormous deficits, we should not fail to exert every effort to collect taxes that are legally owed. I am aware that estimates differ on the extent of additional revenues that would result—ranging from $250 to $600 million over 5 years. The important point is that no matter what estimate ultimately proves to be most accurate, additional revenue will be collected in any case.

I am convinced that extending the statute of limitations from 6 to 10 years to allow for more time to collect delinquent taxes is fair and a revenue-raiser to boot—that combination makes this amendment a winner all around—for the IRS, the U.S. Treasury, and the law-abiding taxpayers of this Nation. Therefore, I am pleased that the final budget reconciliation measure included Senator LIEBERMAN's and my amendment in this issue.

CONFERENCE BUDGET RECONCILIATION BILL

Mr. DODD. Mr. President, I rise to express my support for the budget reconciliation bill for fiscal year 1991.

The budget reconciliation bill is imperfect—but a major improvement on the budget summit agreement of October 7. The solid deficit reduction it provides, the clarification of Government priorities, and the fairness of burden sharing more than outweigh its flaws.

The reconciliation bill preserves the overall summit agreement on deficit reduction. It is the largest deficit reduction package ever considered by the Congress, including deficit reduction of some $40 billion in fiscal year 1991 and $490 billion over fiscal years 1991 through 1995.

As we all know, for the past month, we have faced a crisis—a crisis in Government, a crisis in the economy, and a crisis in confidence in the institution of government itself.

Mr. President, I note that yesterday, the Treasury Department reported that the Federal budget deficit for the fiscal year that ended September 30, 1990, was $220.4 billion, the second highest ever. Last year's deficit reduction legislation projected that the shortfall would be $99.7 billion. Less than $2 billion of the change was due to additional domestic spending. The rest was due to a weak economy and increased spending on the savings and loan cleanup.

We are now paying the price for the excesses of the 1980's—the so-called supply-side economics championed under the Reagan administration. The crisis we face today stems from two fundamental policy decisions made in the early 1980's at the insistence of the Reagan administration: Huge increases in defense spending and massive tax cuts for the wealthy. The gigantic deficit created by these two decisions is the major reason, although not the only reason, we have been in fiscal crisis for months.

Mr. President, we no longer can nonchalantly pile up huge deficits as we did in the 1980's. These deficits made us into a debtor nation, dependent on paying foreign investors high interest rates to keep Government running. The total national debt from the beginning of our Nation to 1980 was $1 trillion. From 1980 to 1987, it tripled to $3 trillion. Interest on the Nation's debt is now $180 billion—that's $500 million a day. Every day, our Nation must borrow $500 million. We borrow most of it from foreign governments.

Cutting the deficit is the only way to reduce the high cost of borrowing—to consumers and government—without spurring inflation. It is the only way we can afford to meet new national needs without mortgaging our children's futures.

By passing the budget reconciliation bill now before us, we can once and for

all begin erasing the Federal deficit that has plagued this country for the past 10 years and begin putting our Nation back on track.

Mr. President, the budget plan isn't perfect but it is a real beginning toward serious deficit reduction. Moreover, it also reflects some of the priorities for this Nation as a budget plan should.

We not only need to have the deficit reduced—we also must invest in the next generation.

In that regard, I would like to highlight a few of the improvements that have occurred since the budget summit agreement. I am particularly delighted that the bill incorporates a two-part approach to Federal assistance to meet the child care needs of millions of families across the Nation—a grant program to States fashioned by the Labor Committee and an expansion of tax credits developed by the Finance Committee.

As my colleagues know, a great deal of my time and energy, and a great deal of deliberation have gone into developing child care legislation. During the 1988 Presidential campaign, George Bush announced his support for child care. Everyone agreed that we needed child care legislation, but we lacked consensus on what that legislation should look like. On June 23, 1989, 15 months ago, the Senate passed S. 5, the ABC bill, after 8 days of heated debate. Subsequently, the House passed its version of child care legislation, and since that time the Senate, the House, and the administration have debated the best way to meet the child care needs of the Nation.

Just recently, with the encouragement of the distinguished majority leader, for the first time, we reached agreement on a new and expanded Federal role in child care. The bipartisan agreement, embodied in this budget package, is a fair and balanced approach that will make quality child care more available and affordable.

I am also pleased that the budget plan includes a substantial improvement in Medicaid coverage, especially for poor children. The Medicaid Program also would be expanded to pay Medicare premiums for more elderly poor and provide home care for them.

Mr. President, I am also pleased about the greater fairness in burden sharing in this bill as compared to earlier budget plans and the budget summit. I had serious reservations about the tax provisions in earlier budget plans because of their regressivity.

By raising the top income tax rate for the approximately 600,000 highest income Americans from 28 percent to 31 percent, by expanding the earned income tax credit for the poor and by reducing the tax breaks for the rich, this bill significantly increases the progressivity of the package.

Finally, with respect to taxes, I am pleased that the package drops the provision of the summit agreement that called for a 2 cents per gallon tax on home heating oil, a tax that would have had an adverse impact on the citizens of the northeast.

Mr. President, I do have some concerns about the package. One of these concerns relates to the Medicare Program. While I am pleased that the beneficiary reductions are considerably smaller than those in the summit agreement, I am concerned that the package retains the Medicare deductible increase and monthly premium increase.

On balance, Mr. President, the budget plan before us continues to have some flaws but is dramatically improved over the original budget summit. It is a budget plan that I can and will support.

We finally are in the homestretch of this grueling, months-long budget marathon. The finish line is in sight. Let's pass this budget reconciliation bill so that we can stop taxing everyone's patience along with everything else.

Mr. DURENBERGER. Mr. President, nearly 10 years ago, Ronald Reagan stood on the west front of this Capitol and challenged us to reduce Government spending, to reduce taxes, and to reduce the Federal deficit. In laying out that challenge, he asked: "If not us, who? If not now, when?"

Mr. President, each Member of this body must ask himself the same question today as we cast our votes on this final compromise reconciliation package. And I stress the word compromise because that is what this package is. It is not the perfect reconciliation bill. If it were solely up to this Senator, many of the provisions of this bill would be crafted differently or dropped completely. I am sure that every Senator can find fault with many aspects of this package; indeed the timing of this bill, coming as it does when the economy sits on the cusp of recession, is a serious concern for this Senator.

But, Mr. President, this is the best possible compromise that the congressional leadership and the President have agreed to. We, as 100 elected officials, have a responsibility to act in the best interests of the Nation. And that means we should support the President and the congressional leadership, and vote for this package. For if it is not this budget reconciliation package, then what is over alternative? If we do not have the courage to vote for this package, then we have failed in our responsibility to the American people.

Mr. President, it has been more than 5 months since the President and the bipartisan congressional leadership entered into the budget summit negotiations. For months we have gone back and forth over how much to cut spending, how much to raise taxes and who should bear the largest tax increase.

Unfortunately, as this process has been prolonged, as positions have hardened, nearly all sense of bipartisanship has been lost. Instead, we have fallen into the worst form of partisan bickering with the Republicans being blamed for protecting the rich while the Democrats paint themselves as the defenders of the working family.

Mr. President, when we descend into this type of partisanship, when both parties seek to use the budget crisis to gain a political advantage, there are no winners; but there are losers. The American people are the losers and the institution of representative government is the loser.

Four times in the last month, the Federal Government has been on the brink of a virtual shutdown because Congress and the President could not reach agreement on a budget. On three separate occasions, the Treasury has had to postpone its weekly financing auction. The specter of an across-the-board $105 billion sequester has hung over our heads for months, even though all of us have known that the President would never let a full sequester go into effect.

Is it any wonder that polls continue to show that Congress is held in such low esteem by the American public? After the performance the public has witnessed this year, I am sure we are going to see more efforts to limit the terms of elected officials. If anything, the anti-incumbent mood of the public is likely to grow more intense when the budget dust finally settles and the public gets the time to reflect on the spending addiction that consumes both parties in this Congress.

Mr. President, this Senator wants to vote for a budget package that credibly leads this country to a balanced Federal budget. And I believe the President of the United States honestly wants to end the hemorrhaging of the Federal budget. That's why he was willing to abandon his campaign pledge and open the door to raising taxes.

But I fear that the revenues raised in this package will be consumed by more spending and by more questionable projects. When we face another budget crisis next year, we will all wonder how so many billions in new tax dollars were frittered away.

Mr. President, we don't have to wait until next year to figure out where the money is going. Just take a look at some of the appropriations bills that have been moving through Congress. At a time of budget crisis, the Appropriations Committees raised Human Services by 14 percent—an increase of nearly $23 billion. Mr. President, that's more than one-half of the tax increase that is included in the reconciliation bill.

And, Mr. President, at a time when we are asking the American people to make some real sacrifices, legislators on both sides of the aisle have slipped in what can only be described as "pork" for their districts and their

states. The Housing appropriations bills earmarks money for 61 projects including $2 million for renovation of the New Freedom Theater in Philadelphia, $769,000 for lighting on a bridge in Bay City, MI, and nearly $1 million for a performing art and cultural center in North Miami, FL. In addition, we found a half a million dollars to renovate the birthplace of band leader Lawrence Welk, and hundreds of millions of dollars for Federal buildings and highway projects throughout the country.

Mr. President, it is the urge to spend, not the reluctance to tax that has gotten us into this budget mess. Unless we can gain control over the appropriations process, we are forever doomed to budget crisis after budget crisis until the point is reached where the American people will rightfully decide to vote us all out of office.

Mr. President, I am sure this is not the last speech we are going to hear about disciplining spending, and so I want to take a few moments to discuss the reconciliation bill that we have in front of us. Much has been made about the fairness issue, about who should pay the lion's share of the tax increase in this package. A number of provisions trouble me in this bill, and I briefly want to discuss them.

This bill uncaps the Medicare hospital insurance [HI] payroll tax cap that currently limits wages subject to the HI tax to the level set for Social Security. I think that removing the $51,300 limit is a fundamental tax policy and health policy mistake.

In the first place, increasing wages subject to the HI tax wil not help reduce the Federal deficit. It only serves to mask the size of the deficit, it does not reduce the deficit.

The hospital insurance trust fund has a current surplus of approximately $15.9 billion. The hospital insurance trust fund has a current surplus of approximately $15.9 billion. The hospital insurance trust fund does not contribute to the deficit. Quite the contrary, along with the Social Security and the highway and airport trust funds, the hospital insurance trust fund is helping to mask the true size of the deficit. Raising the HI wage cap merely perpetuates what some might call a fraud on the American people as to the precise contours and size of the Federal budget deficit.

Moreover, uncapping the HI payroll tax eliminates the nexus between the insurance premium value associated with the tax and the ultimate benefit that will be derived from the tax. The HI tax is really a prepayment premium on future health insurance. There is a nexus between the amount that an empoyee pays into the system and the ultimate value of the benefit that he or she will derive from that benefit. But lifting the cap to $125,000 eliminates completely the insurance premium concept associated with the tax.

Mr. President, I would also note that the HI Trust Fund is financed by a tax—1.45 percent—on employees and 1.45 percent employers. The tax is levied only on wages. The tax is not levied on unearned income. It is not levied on dividends, it is not levied on interest, it is not levied on capital gains. The HI tax is not levied on fringe benefits like tax free health insurance provided by big companies or pension contributions from the big corporations of America. No, the HI tax is strictly a tax on wage income. And because most small businesses are unable to offer generous tax-free fringe benefit packages, it will affect them far more than the large corporations that employ hundreds of people in their benefits departments.

Mr. President, because the HI tax is strictly a tax on wages, it means that nearly all of the current beneficiaries of the program, the nonworking elderly, are not asked to pay a single cent more to maintain the integrity of the HI trust fund. Only working people. Not those retired people who receive handsome dividend checks in the mail every month, but working people. In our current fixation to raise taxes on the rich, we have crafted a bill that focuses primarily on upper income wages—earned income—while refusing to ask upper income retirees to pay a fairer share of the costs of an entitlement program whose costs continue to defy gravity.

Mr. President, in 1989, 136 million working Americans contributed $68.4 billion in payroll taxes to the HI trust fund. This financed $60.8 billion in hospital services for 33 million eligible benficiaries. Why should we ask working people to pay even more into the HI trust fund when the beneficiaries refuse to ante up their share of the overall Medicare Program?

When the budget summit concluded, the leadership proposed a package which, for the first time in more than a decade, asked Medicare beneficiaries to share a slightly larger portion of the part B voluntary Medicare Program. The leadership did not seek extraordinarily burdensome changes in finacing the program; it sought only modest changes. It sought to increase from 25 to 30 percent the beneficiary share of financing the part B program. It sought to increase from $75 to $150 the part B deductible.

Unfortunately, even these modest cost-sharing proposals have been discarded in this package. Quite simply, Congress finds it far easier to raise taxes on working people than to have the courage to ask retired beneficiaries to contribute modestly to the health insurance program that provides them such basic protections.

Mr. President, much has been said about how this bill begins to restore fairness to the income tax because it imposes higher taxes on the wealthy. I do not object to the idea of asking the wealthy to pay a larger share of the cost of government; indeed I never accepted the idea that the tax system would be more equitable if it contained only two tax brackets.

However, I am troubled by the fact that we are beginning to move in the direction of raising marginal tax rates. It should be perfectly clear to anyone who went through the experience of the 1986 tax reform that high marginal rates do not guarantee that the upper income citizens will pay more taxes. Quite the contrary, the higher the rates, the greater the likelihood that wealthy citizens will find tax shelters that reduce their taxes.

In 1977, when the top tax rate on unearned income was 70 percent, and when the top tax rate on earned income was 50 percent, individuals in the top 5 percent of income paid 36.9 percent of all taxes. Individuals in the top 1 percent of income paid 19.5 percent of taxes. According to the Congressional Budget Office, in 1988, when the top rate was reduced to 28 percent, individuals in the top 5 percent paid 40.9 percent of all income taxes. And individuals in the top 1 percent of income paid 23.8 percent.

Mr. President, it is not higher tax rates that guarantee more revenues for the government. What the 1986 tax law changes show is that if you broaden the base of income subject to tax, and keep rates low, more tax revenue will flow into the Treasury.

Unfortunately, this legislation does not expand on the base broadening efforts that we engaged in throughout the 1980's. In fact, this bill does almost nothing to reduce the amount of tax "spending" that occurs every year as a result of the more than 100 special tax loss provisions that still clutter the Tax Code.

According to the Joint Committee on Taxation, these tax expenditures in 1991 will total nearly $320 billion and are projected to rise to over $400 billion in 1995. While that is far more than the $183 billion in tax expenditures we incurred in 1980, the base broadening that we achieved in 1986 significantly reversed the tax expenditure trend. A joint tax estimate prepared in 1985 had projected that we would be spending more than $600 billion through the Tax Code by 1991.

So, Mr. President, I would suggest that rather than raising rates, rather than creating special rules for upper income categories, we ought to be looking at better ways to broaden the base of taxable income. Next year should provide us with a better opportunity to consider these issues.

Mr. President, while there is much in this bill I do not like, there are, in fact, many positive features of this bill that deserve mention and if I needed to justify this vote, I can strongly advocate support. The child care provisions that we have labored over for more than a year move this country in the direction of what I would call, child care by choice. We have expanded the earned income tax credit for low income working familiers and

made the dependent care tax credit refundable. These two provisons will provide substantial financial relief to the millions of two-income families that are struggling to raise families on modest incomes.

In addition, this legislation includes a provision authored by the distinguished chairman of the Finance Committee, Senator BENTSEN, that provides a modest tax credit to offset a small part of the cost of health insurance for children. This is a very modest step, and I hope that this tax credit will expand the availability and affordability of health insurance. But all of us know that if we are ever going to see the day when there is universal access to health insurance in America, it will require far more financial resources than we have so far been willing to spend.

This legislation also extends important provisions in the tax code that encourage the construction and rehabilitation of low-income housing, and make it easier for young families to purchase their first home. And it extends the 25-percent deduction for health insurance for the self-employed. Mr. President, while I am pleased that the conferees included the 25 percent health insurance deduction, I am committed to raising the deduction to 100 percent. There just is no reason to perpetuate the health insurance inequity that exists between self-employed small business men and women, and people who work for large corporations.

Mr. President, I want to especially thank Senator BENTSEN for including a 4 year extension of the Superfund Hazardous Waste Cleanup Program in the bill. Since June, I have been working with members of the Environment and Public Works Committee to get this program extended before next year's deadline. If the Superfund Program were not extended, EPA would not be ble to enter into any long-term cleanup contracts. The agency's budgeting and planning for future activities would be severely hampered. Cleanups would be delayed; contracts would be threatened, and work in the pipeline would be stopped. The conferees did the right thing in extending this program.

Mr. President, earlier today, we enacted an historic clean air bill. One part of that bill requires oil companies to reformulate gasoline products as part of an effort to reduce pollution from automobiles. And I believe that will mean we are going to be using more ethanol blends in our cars. This reconciliation bill extends the current ethanol tax exemption and it also provides a new tax credit that will encourage more farmers to build ethanol plants. Those are important steps to improving America's energy security and the quality of our environment.

Mr. President, I have spent most of my Senate career dedicated to improving the delivery of health care in this country. This reconciliation bill makes many health care changes that I am proud to have worked on along with several of my colleagues. I want to list just a few of these important changes.

For the first time, we have imposed tough rules on insurers who sell Medigap policies. Because of this new law there should be an end to the horror stories I have heard about elderly people who were pressurized into buying seven or eight duplicative Medigap policies. These rules simplify the number of benefit packages that can be marketed by insurers and protect beneficiaries by limiting medical underwriting and preexisting condition rules.

In addition, Medigap policies must contain guaranteed renewability clauses and must be priced in such a way that a far higher amount of benefits are returned to beneficiaries than is currently the case.

This reconciliation package requires the Secretary of Health and Human Services to submit to Congress by January 1992, a proposal for reforming payments to health maintenance organizations under Medicare. This report should go a long way toward addressing the serious rate setting problems under risk-based, capitation contracts that have discouraged HMO's from participating in Medicare and denied beneficiaries access to important managed care benefits. Other enrollment and coverage changes should further improve participation in the future.

Mr. President, when Congress repealed the catastrophic health law last year, it also terminated the mammography screening benefit that I had authored in the Finance Committee. I am especially pleased that this reconciliation bill restores this important medical tool for the early detection of breast cancer to the benefits offered through Medicare.

This package also provides greater equity to rural hospitals throughout this country. Over the next 5 years, the current reimbursement differential that exists between hospitals in rural and urban communities will finally be eliminated. This will help assure the financial viability of rural hospitals, allowing them to continue providing needed care in areas that are all too often medically underserved. This bill also provides some payment equity for primary care physicians. Because of this legislation, the current floor on prevailing charge levels for primary care services will rise from 50 to 60 percent.

Mr. President, this bill also makes some important improvements in the Medicaid Program. The Federal and State governments will share in the costs of paying to extend Medicaid coverage to children living in families with incomes equal to or below the poverty level. Payments to hospitals that care for infants and children under age 6 who are very ill and have long lengths of stay will also be improved. In addition, the bill assures that the Medicaid Program will receive discounts on prescription drug products in the same way that other large purchasers receive discounts.

This legislation also tries to improve financial protection for low-income Medicare beneficiaries. The current law effective dates for rules permitting Medicaid to pick-up the tab for low-income Medicare beneficiaries' out-of-pocket expenses have been accelerated. Effective almost immediately, beneficiaries whose income is at or below 100 percent of the Federal poverty level can take advantage of this protection.

Finally, Mr. President, I want to note that a highly successful and nationally recognized managed care service demonstration project for Medicaid families conducted by the State of Minnesota will be permitted to continue operating for 5 more years.

Mr. President it is not just the work of the Finance Committee that should be mentioned here. The Labor Committee made some very important changes to the student loan program which should help to maintain the solvency of the program. Schools with default rates in excess of 35 percent have been eliminated from the program. I would have preferred that the threshold would be lower than 35 percent, but this is a step toward ensuring the solvency of the program.

Mr. President, there is much more that can be said about this bill. But I will stop here. I would prefer that next year we approach the job of policymaking in a different fashion. We should not be making fundamental programmatic changes only when we write budget reconciliation bills. This process does not give all Members of the Congress sufficient time to reflect and provide important input into policy changes. I would hope that next year the committees of Congress, especially the Finance Committee, will begin to consider major structural program changes outside the contours of reconciliation.

In particular, I want to see us restructure the Medicare Program to provide for elderly and disabled Americans what they really need and can afford.

I hope in the next Congress to lead an effort to reform health insurance to make it affordable to all. I believe we can and should begin to make a national commitment to long-term care; and finally to work with the 50 Governors and legislature to restructure Medicare to benefit all low-income Americans.

Mr. President, I know this is a difficult bill for all Senators to vote for. But we were not elected solely to make easy choices. The right choice is to vote for this bill.

Mr. PRYOR. Mr. President, today we passed an unprecedented 5-year budget reconciliation bill that will reduce the deficit by almost $500 billion. We have labored for months to develop a package that could be sup-

ported by the majority of the Congress and be signed into law by the President.

Although we all have reservations about this legislation, we would have had reservations about any package that achieved this much in savings. It is hard for me to conceive of any other proposal that could have received the necessary support to become law.

We could not have reached this point without the leadership and unmatched dedication of our Senate leadership. In particular, countless hours and sleepless nights were dedicated to this monumental effort by the majority leader, Senator MITCHELL, the minority leader, Senator DOLE, the chairman of the Appropriations Committee and our President pro tempore—Senator BYRD, the chairman and ranking member of the Budget Committee—Senators SASSER and DOMENICI, and the chairman and ranking member of the Finance Committee—Senators BENTSEN and PACKWOOD.

Regardless of how anyone feels about the final package, all of these Members and their staffs have earned the admiration and respect of our Nation. I not only admire and respect these individuals, I also was happy to join them in making modest contributions to this deficit reduction effort and was honored to stand with them in support of this year's budget reconciliation legislation.

I would like to take this opportunity to note the contributions of my own staff to this year's reconcilation bill. I have the privilege of serving as chairman of the Special Committee on Aging, and as chairman of the Governmental Affairs Subcommittee on Federal Services. The staffs of these committees, as well as my personal office, have worked on, and successfully incorporated, a number of significant provisions that were included in the deficit reduction measure.

From my Governmental Affairs Subcommittee staff, my thanks to Ed Gleiman, Denise Boerum, Bobby Franklin, Rick Goodman, Kirk Robertson, and Kim Weaver on a myriad of issue related to Post Office and other Federal services issues.

From my Aging Committee staff, I would especially like to note the work of Jonathan Adelstein, Holly Bode, John Coster, Bonnie Hogue, Chris Jennings, and Portia Mittelman on income security, Medicaid, Medicare, and prescription drug issues. I also would like to thank David Schulke for his investigative efforts that served as the foundation of the prescription drug legislation included in this package.

And last, but certainly not least, I would like to thank the staff of my personal office. In particular, Don Harrell, Vince Ancell, Desten Broach, Miles Goggans, John Monahan, and Ed Quick have also made numerous legislative contributions in the areas of small business, budget, agriculture, nutrition, and trade. Special thanks go to Jeff Trinca for his mastery of the intricacies and mysteries of the Tax Code.

While I mentioned staff who have worked directly on the reconciliation measure, all my staff have made equally important contributions to the operations of my office. I am fortunate to have such dedicated aides who are committed to serving the people of Arkansas and this Nation. They have made it much easier for me to be responsive to the needs of my constituents during these final weeks of the 101st Congress. My sincere thanks to each and everyone of them.

CSB FLOOR SPEECH ON IMPORTANCE OF SCHOOL-BASED CARE IN CONFERENCE DELIBERATIONS

Mr. BOND. Mr. President, after many long months it appears that we will finally have a child-care bill. I was extremely pleased to see that the reconciliation conferees agreed to retain language from both the House and Senate-passed bills authorizing before and after school child care programs in public schools.

School-based care is an idea whose time has come. Last year during debate over the act for better child care, I spent a great deal of time trying to convince my colleagues of the importance of including school-based care in the bill. You will remember that the original ABC bill did not contain a specific authorization for school-based care. I worked hard to see this included and was pleased that my amendments authorizing before and after school programs were accepted by the bill's sponsors and the full Senate.

I'd like to take a moment to review both the need for and the cost-effectiveness of before and after school child care programs. While my colleagues have heard me say this several times before, I believe it bears repeating again.

While estimates vary from 10 percent to over 30 percent, we know that a significant number of all children aged 5 to 14 are unsupervised either before or after school. Raising a generation of children who care for themselves will certainly have its consequences.

Studies have shown that unsupervised children are far more likely to get into trouble than their counterparts. Last fall a California study showed that latch-key children are twice as likely to use alcohol and other drugs as their peers who are supervised. In a recent national survey, public school teachers rated the widespread practice of leaving children on their own after school as the biggest cause of youngsters' difficulties in the classroom. In addition, Scholastic magazine invited students aged 5 to 14 to write in about something they feared. More children wrote essays about their fears of being home alone than any other topic. Mr. President, I would submit that we cannot afford to ignore the needs of this huge group of children any longer.

There is a cost-effective way to meet the needs of these children. The solution is beginning to be implemented on the local level, by educators and parents concerned about the time when the child is not in the care of either party. About 15 percent of the Nation's local districts now offer their own child care service, or allow community groups to use their buildings. Surely schools can be utilized more fully than they are currently, only 7 to 8 hours a days, and cost-effectively, in meeting the needs of children whose parents work. And I believe a little Federal money invested in programs of this type could go a long way toward alleviating the shortage of school-age care, at little or no long-term cost to the Federal Government.

Mr. President, I am pleased to say that Missouri has taken a lead role in this area, through the Progressive 21st Century Schools Program that is now underway in Independence, and through a number of programs scattered throughout the State that have come into being with the aid of very small start-up grants through the department of elementary and secondary education, 32 of Missouri's 546 districts now offer some sort of extended-day program for school-age children. Another 151 districts have requested information or technical assistance for school-age child care. To be eligible for funds, a school district must be anticipating establishing, expanding, or improving an extended day program.

In 3 years, just $200,000 was spent to establish programs in 65 schools, with a capacity of 3,000 students. The total investment works out to about $68 per child. And, because schools have the necessary infrastructure, and do not have to pay for lights, heating, liability insurance, et cetera, the school can operate in the black at very little cost to parents.

In Independence, MO's "top of the line" 21st Century School Program, the expenditure of any parent—with one school-age child—is $25 per week. Independence is not a wealthy area, and poorer families are assisted through a sliding fee scale. Even the poorest districts can develop programs like this and with some ongoing assistance, as envisioned in the final bill, can operate in a cost-effective manner.

Mr. President, there has been a great deal of talk, during debate over the child-care bills and during the conference, about the need for and value of before and after school care. Some even argued that there was really very little interest in latch-key care. I would submit that while there are relatively few groups lobbying in behalf of school age children compared with those advocating for the needs of preschoolers, outside of Washington, DC this issue could not be more relevant, or important. I believe it would have been a grave mistake to leave school-

age care cut of the final child-care package and commend those conferees in both the House and Senate who insisted on its inclusion.

Mr. KERREY. Mr. President, I rise in support of the deficit reduction package.

I know the summiteers are tired; we are all tired. I miss my children. After looking at the outline of the budget deal, I have concluded it satisfies my most minimal requirements to vote yes. It has crawled weakly across a weather-beaten, sagging finish line and has collapsed.

The best that can be said is that the package limped home. Witnesses have not seen the majesty of a grand performance. We do not walk away inspired by an extraordinary human accomplishment; inspired to believe in our own innate abilities.

It is a rather like the work of a sausage factory before the days of meat inspectors. We who have made the sausage have produced something which is edible, but only by those whose hunger for deficit reduction enables us to overcome our knowledge of what it is we are about to eat.

The memory of the smell of deals, conferences and private arrangements is fresh in all our minds. We know our work has not been carefully inspected by the people themselves. We know they will discover the droppings of lobbyists in their food. We know this work has been adulterated. It is fit for human consumption, but not by much.

It is fit for consumption because we have made painful progress with this package. We have reduced the increase in the deficit. We will borrow $40 billion less in this fiscal year than would have been required without this agreement. We will borrow $500 billion less over the next 5 years if the assumption for interest rates and economic growth come to pass. We have made real spending reductions in defense, agriculture, Medicare, and interest.

However, I believe strongly that we have missed an opportunity to make more substantial reductions. I wish the President had waited a little longer before agreeing to raise taxes. Instead, with a few notable exceptions, our spending went on as usual. Like all of us the President was afraid of losing votes; regrettably our collective lack of courage will cost us a lot more than elections.

We did have a very important achievement. We have shifted the argument from the question of the need for a tax increase to the more important question of who should pay them. It does matter how the burden of our taxes is distributed and there is little doubt left about the need to relieve the burden on the 92 percent of American taxpayers whose incomes are less than $50,000. Working Americans have taken too big a hit in the 1980's with higher payroll taxes and this reconciliation agreement takes that fact into account.

However, unless American productivity improves this entire tax fairness argument will be for naught. This package does little to address the need for our economy to regain a strength which enables it to grow without the debt driven features of the 1980's. We still have not addressed the pressing need to produce our way to higher standards of living.

This, of course, would require us to tackle issues more difficult and controversial than whose programs to cut or whose taxes to raise. This would require us to reform our health care system so that its rising costs do not simultaneously drag down our competitive condition or our humanitarian ideals. It would require us to follow through on the Family Support Act of 1988 to assist Americans as they struggle to improve their technical job skills. It would require is to boldly restructure American public education and above all to answer the needs of our children whose voices are simply not loud enough to influence our spending decisions.

It would require us to lay out a 20 year infrastructure strategy for our roads, bridges, water, and sewer systems. It would force us to put money behind our wordy recognition that each of these are productive investments which yield great economic benefits.

It would require us to admit that in the information age it is appalling for the United States of America to have lost the opportunities presented to us by the technologies available now and in the near future. With the end of the cold war we should be applying communication technology in American homes and businesses in the same exciting manner we have been doing for military uses.

This, of course, is only a partial list. Housing—where the intersection of productivity and humanitarian need is best illustrated—must be included. NASA is crying out for structural reform. Small science, that fountain of American youth and innovation, is running dry.

This is not the only misgiving I have with this package. The national debt will increase from $3.4 trillion to $5 trillion. The borrowing for the next fiscal year alone will exceed $300 billion. I hope we do not sit quietly if the President tells us next January—as he has the past 2 years—that our deficit is under control. I hope we have not gone through the agony of the past 5 months only to deceive ourselves again.

I know the leadership of this Senate has worked tirelessly to produce this package. We all know why it was difficult: It is a lot more fun to spend more money and reduce taxes rather than the other way around. The time has come for us to pay the bills; we should regard this action as a first installment.

The United States is still a great and mighty country. The ingredients of our greatness are equal parts of faith, hope, love, courage, and an unabashedly bold belief that we can accomplish the impossible. At the heart of my disappointment with this deficit reduction effort is my desire as one American to participate in something larger, grander, and more imaginative.

I'm tired, Mr. President, but it is not just a little fatigue. I am tired of participating in mediocre efforts. I'm tired or producing barely edible food when I know we can produce the best.

Mr. BIDEN. Mr. President, it was a tough call but in the final analysis I could not give my approval to this conference report. Although it is better than previous deficit reduction plans, and contains some worthwhile legislative proposals that I favor, I believe that it is still unfair in the way it distributes the burden of $137 billion in new taxes. Quite frankly, the very wealthy should have been asked to pay a lot more.

I opposed the summit agreement because it would have protected the wealthiest in our society, again at the expense of the low- and middle-income taxpayers. In debate on the Senate reconciliation bill, I voted four times to make the wealthy pick up a bigger share of the deficit reduction burden. Unfortunately, these efforts all failed.

The conference report at least moved in the right direction. The Medicare cuts are smaller, the gas tax increase is lower, and the wealthiest taxpayers will at least be asked to pay the same marginal tax rate as those who earn less.

Other worthy and important proposals include: New child care assistance, health care for poor children, and tax incentives for first-time home mortgages.

But the tax provisions are still insufficiently fair to earn my support for the entire package. I hope and expect that these provisions will be revisited in the 102d Congress.

Mr. STEVENS. Mr. President, just a few moments ago in our leader's office, I asked the question of Mr. Darman what would happen if this bill did not pass. He told me that the President would have to start immediately imposing automatic cuts based upon a $105 billion sequester of our appropriations bills as soon as they are signed. That would mean there would be more than $50 billion cut from Defense immediately, and more than $50 billion assessed to nondefense programs in the other appropriations bills.

What that means is, with more than 200,000 troops overseas right now, although those troops would not be affected, the support for those troops would be severely weakened. This defense budget cannot take across-the-board cuts of more than 40 percent in many of our defense accounts with the Middle East crisis going on.

Second, the balance of the sequester would come from the nondefense dis-

cretionary funds. It would mean that the war on drugs would suffer a serious setback; immigration and customs would be reduced—customs by about one-half. We would have across-the-board cuts on environmental protection. Fisheries programs, so vital to my State, would be seriously cut back. Park Service facilities would have to close once again. A budget sequester would bring massive furloughs to our Goverment employees.

The people who would bear the greatest pain would be those who really depend upon Federal services. Many of those in the business world depend on Federal services for Customs services. Mr. President, a sequester would be worse than anyone can contemplate in terms of the continuity of our system of government and our free enterprise system.

From this Senator's point of view, I wish we had had a chance to vote on the budget summit agreement. I think it was more fair. I think our leaders had worked hard for a long period of time and it deserved our approval. I commend them now for having gone back to the table and worked again and brought us a second package.

I find the same people who did not accept the first one are now trying to turn over the second one. It is my hope that will not happen. Our leaders deserve our support. They have worked hard. I believe the country would be better off if this bill is passed, notwithstanding the fact, as I said, it is worse than the first one and it is really not all that acceptable to anybody. But in my judgment, we have to pass this bill right now to avoid that sequester.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, this is the toughest vote we will cast, and I have been watching those who have been participating and give them nothing but my admiration.

Only in Washington, DC, can you find a place where when you are talking about Medicare cuts, what you are talking about is that they were going up 11½ percent if we did not do anything, and we decided we would only let them go up 10 percent. And so by cutting back an 11½ percent increase to a 10 percent increase, we have cut.

Boy, I tell you, that is tough to get across. I think the national media really fails the test. If the function of a free press is anything, it is education, not just firing up the troops with little bits of babble about that thing, and taking pictures of people who are not even on Medicare, and not even getting across to them that 25 percent of the premium is paid by those people, and Joe Six-Pack is paying the other 75 percent, the little guy they always talk about.

So that is part of it. Nobody is touching Social Security. What a cruel hoax, what a terrible thing, to confuse America's senior citizens by telling them that is in here with Social Security. Nothing is in here with Social Security. And they are going to get a cost-of-living allowance on January 1 of 5.4 percent, and it will cost the Government $21 billion, while they are there trying to figure out what to do between $3 billion and $5 billion. That is where we are.

But if you had to do it all over as real statesmen, what would you do? It is easy to criticize. But if you had to convene the most responsible people in this legislature, who would you get? You would get Senator GEORGE MITCHELL; you would get Senator BOB DOLE, our respected leaders; you would get the dean of legislators, ROBERT BYRD; you get JIM SASSER, who has turned into a real player; you would get BOB PACKWOOD, a bright and energetic person; you would get LLOYD BENTSEN; you would get the indomitable PETE DOMENICI.

That is who you would get, and that is who we did have. If you run through that list, these are the people who did all the tough negotiating. If there is a better package possible, I would love to see it. I surely would love to see it. Who would produce it? Who else could produce it? This package is here because it is not the best of all worlds, but it is the best of all possible political worlds at this point.

So let us stop talking the talk, and finally walk the walk and do what we know we have to do in a responsible way and let the people of America finally see their Government function instead of the left telling us one thing and the right telling us another, and then those of us who are in the middle having to plow the good ground.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from New Mexico [Mr. DOMENICI], for up to 4 minutes.

Mr. DOMENICI. Mr. President, this ordeal is just about over, and I am very hopeful that the divisiveness that has come with it is about over. We are going to vote, and hopefully it is going to pass. I hope that those who oppose this package—and they do so because they hold strong views—will leave and go home, go through these elections, and return next year, once again committed to do what is right for this country.

Mr. President, there has been a lot said about specifics. I am not going to talk about specifics. If this budget package is adopted, the deficit of the United States will be reduced substantially. That is not hot air; $490 billion will be taken off the deficit in the next 5 years.

There are those who say, "How?" I will tell you how. The discretionary accounts of this Government but for this package would have grown about 3½ percent a year, real growth. They now will grow at 2 percent. Now, in a budget this big, that is a pretty good reduction. Normally it goes up all the time. Now it is coming down from 3.5 percent a year. It will be growing at 2 percent a year.

Is it balanced? We have heard all kinds of remarks about cutting the wrong things or leaving the wrong things out. Let me just summarize. The discretionary accounts of our Government will be reduced by $184 billion over the next 5 years. That is, 37 percent of this package comes out of discretionary spending, and they are capped and they will be enforced.

You heard the appropriations chairman, who made this deal, agree that the caps would be enforced, and we who enforce it say they will be.

The entitlements, there has been much discussion about did we do enough? Did we do too little? Twenty percent of this package comes from those accounts—$99 billion.

Once you make the cuts, you are finished; the cuts are done. Revenues will constitute 29.8 percent of this package—$147 billion.

Frankly for some that may not balance but if you look at the Government of the United States and where we are today, you can balance 37 percent out of discretionary, 20 out of mandatory and entitlements, and 30 percent out on the revenue side, you have a pretty good balanced package.

We should do it. We should pass it. If the deficits are harmful, we should vote for this package. On the other hand, if deficits are good and growing deficits are healthy for our children, and our future, we should vote against this package. It appears to me very simple. If you want a chance to grow and prosper, if you want a chance for more jobs and more opportunities, get the deficit down.

There may be other things you have to do. But start with the first thing first.

I regret that everyone is not in accord on this package. I repeat, I hope the divisiveness leaves the scene, not the fact that we should disagree. That has to always be there. But we need not have any acrimony. We have done the best we can. The President has. The package is a good one. We ought to vote it in.

The PRESIDING OFFICER. The distinguished Republican leader is recognized for 7 minutes.

Mr. DOLE. Mr. President, I understand at that time all time will have expired.

The PRESIDING OFFICER. The Senator is correct.

INTRODUCTION

Mr. DOLE. Mr. President, the budget process has been a long and difficult road this year. It began on January 29, when the President submitted his budget, but soon bogged down in partisan bickering and phony number games. By May, it was clear to everyone that Congress was going nowhere fast and the cold air of a recession was breathing down our backs.

Congress needed leadership and it was up to President Bush to provide it.

On May 6, the President summoned the leaders of Congress to the White House and asked that they join him in a bipartisan summit to solve the budget mess once and for all. Well, it took us another 5 long months, but Congress and the President were finally able to agree on a 5-year package of deficit cuts totaling almost $500 billion.

TOO MUCH OF THE SAVINGS IS FROM TAXES

Mr. President, this package is not the deficit reduction package any individual negotiator, including President Bush, would have written. In my opinion, too much of the package, almost one-third, comes from taxes. There is too little real spending reform.

Nevertheless, the strong commitment of the negotiators to the spirit of tax reform: Low tax rates and the curtailment of deductions and other loopholes for the wealthy, ultimately transformed the House tax increase bill into a bill which actually cuts income tax rates for 4½ million Americans while raising rates for only the wealthiest 600,000.

By flattening the so-called bubble, we have lowered the marginal tax rate paid by families earning between $75,000 and $200,000 in income, while raising the top rate paid by wealthier taxpayers from 28 to 31 percent.

In addition, the bill places a floor under the itemized deductions of the top 3 to 4 percent of American taxpayers in lieu of further increasing tax rates which would have made those deductions that much more valuable.

Finally, so-called sin taxes, excise taxes on alcohol and cigarettes are increased, and gasoline taxes are raised to promote conservation and energy security. We also included offsetting incentives to small oil and gas producers and those committed to innovative technologies.

Thus, those tax increases in the bill which are not borne by the wealthiest taxpayers have been directed at socially beneficial goals.

ANTIFAMILY BIAS

Mr. President, I understand that some have called the reconciliation conference agreement antifamily because the conferees have decided to continue the phase out of the personal exemptions for upper income taxpayers which was begun in 1986.

The premise of tax reform was that a fairer and economically more efficient tax system could be achieved by dramatically lowering tax rates while repealing deductions and other tax benefits for upper income taxpayers. We have heard a lot about the so-called bubble—which phased out the benefit of the 15 percent rate bracket and personal exemptions for families with 1990 incomes in excess of $78,450.

The new rate structure adopted in conference repeals the bubble. All that the conferees have done is to restore the personal exemption phase out, but for families with incomes in excess of $150,000—the top 1 percent of all taxpayers. This benefit is not entirely lost until family income reaches $275,000.

The personal exemptions were designed to adjust the tax rate structure to take into account the needs of larger families whose ability to pay taxes is less than that of a couple without children earning the same amount.

This adjustment, a deduction of approximately $2,000 per person, is intended to offset the additional costs incurred to support an additional child or dependent. However, the conferees have decided, as the Congress decided in 1986, that families earning in excess of $275,000 do not need an additional $2,000 deduction to afford to raise their children accordingly, the reconciliation conference report reduces this deduction by 2 percent, or approximately $40, for each $2,500 of income over $150,000. This is not antifamily, it is pro tax reform. And I urge my colleagues to believe the facts, not the rhetoric.

MEDICARE

Many of the elderly have panicked after hearing reports that we are slashing Medicare. This is completely untrue. There will be no reduction in care. We are simply asking that those who participate in the program pay an increased share of the costs. Under this budget agreement, two relatively minor changes would take place in 1991: First, the part B deductible would increase from $75 to $100 a year—a $25 increase, and second, the part B premium would continue to represent 25 percent of program costs. Seniors will continue to receive a taxpayer subsidy of 75 percent on their part B premium. Not a bad deal in my book.

Of course, there are many seniors who will not be able to afford this modest increase. They should not worry, however, because Medicaid will continue to pick up the cost of both their deductible and their premium. In fact, there is expanded Medicaid coverage for the low-income elderly contained is this deal.

On the provider side, while the cuts are deep, there are also some real improvements. We are finally going to see a phase out of the urban rural differential so that rural hospitals will be more adequately reimbursed.

CHILD CARE

One of the truly bright spots in the bill are the child care provisions. After months of debate, we have finally reached consensus on both the grant and tax credit portions of a child care bill.

The end result of our efforts, is to put money and decisions regarding child care in the hands of parents. The changes in the earned income tax credit, and the supplemental infant credit are targeted to those with low incomes and young children. The grant position gives the funds with very few strings attached so the moneys can be used for a variety of programs and providers. Most importantly any child care services must be provided through a delivery mechanism that includes an unrestricted certificate option.

Mr. President, the compromise is a good one.

AGRICULTURE

This package also contains painful cuts for our Nation's farmers. They, more than anyone else, have contributed their fair share to the package. During the next 5 years farm program spending will be reduced by 25 percent, or approximately $14 billion.

For many years, I have stressed that farmers have more to lose from rising interest rates and runaway inflation that any other industry. Many politicans in Washington pawn themselves off as the farmers friend by clamoring for increased spending. But to see how friendly these short-sighted policies are, all you have to do is to remember the early 1980's when irresponsible fiscal policy left America's farmland dotted with foreclosure signs. Farmers deserve a farm program which is not based on short-term political gain, but preserves their longer term interests through economic stability. We in Congress must wake up and realize that it is not worth selling out the future of the family farm, just for the easy vote.

CONCLUSION

The politicians who are griping the loudest about this budget plan, were the quietest ones in the room when it was time to put budget reduction options on the table. If they had their way would they have frozen cost-of-living adjustments for security and military retirees? We did not. Would they have taxed Social Security benefits? We did not. Would they have dropped the earned income tax credit for the working poor? We actually increased it by $13 billion.

This Nation, and its people, are at a critical moment in our history. Without action, the deficit will soar to almost $300 billion—the highest level ever. Interest payments on our $3 trillion debt now equal $175 billion a year; that is almost double the amount of the first budget I voted for when I came to Congress in 1961.

Does anyone really think that this Nation should just ignore a $300 billion deficit? Do we just stand around and watch interest rates rise toward double digits as America's national debt spirals out of control? This is the choice that Congress now faces; vote for this deficit reconciliation conference agreement, which truly pleases no one, or vote for nothing, which will be a disaster for everyone.

We are either Americans who share equally in the future, or we are nothing more than an amalgam of interest groups fighting among ourselves for short-term gain. The price of our short-sightedness will be paid for, not by us, but by our children and grandchildren. If we do not make the tough

votes in the next 2 weeks, the young people of America can expect to face a short-changed future of stunted economic growth and limited opportunity. That is not an option I care to take.

Mr. President, we are about to bring to an end a very long and tortured process many of us have been through starting in May and then again in June. Since August 27 we have had sort of the emergency concept of trying to put a budget together. Finally, we have it done.

It is not the package we had on October 4, which was shut down in the other body to a large part because some of the President's own party were not prepared to make hard choices. Now we have a package that is not quite as good. We have had to make concessions to those who delivered the votes.

I would say to those who are opposed to any package, if you are going to oppose any package, you are not going to have much input. If one side has 60 votes, we have 20 votes. The way it works generally is the side with 60 votes will have more to say about the final package.

So I come here today saying we do not have the package we had at the end of the summer. We still have a good package. We do not have the savings we had in the first package, which was thrown out with the water on October 4 in the other body. But all in all, we have a package that I think most people would say Congress would never do that in 100 years. We have not done it in 200 years.

This is a biggest single deficit reduction package in history. It is not perfect. Those who want to vote no, can find 20, 30, 40 reasons. Unfortunately, we are backed up against an election. That costs some votes. Then we have party elections November 13. That may cost more votes.

But, I want to pay tribute first of all to President Bush, because without his walking the plank, so to speak, we would not be here today. Without his pledge to help us and support us we would not be here today.

The bipartisanship we have had—and we have had it from day one in the U.S. Senate—we may not produce 50 percent of the votes today, I regret to say that to the majority leader. There is still a chance, but I doubt it. We will be awful close.

But I want to point out to some who have been talking about this bill has too much taxes, nobody likes taxes. The last time I checked at home, I said, "Do you like your taxes raised?" Not a single person raised his hand.

But I am reminded of the Time Magazine poll, where 84 percent support the gulf crisis, and say we are willing to make the sacrifice to help in the gulf crisis. The next question was, "Would you support a gas tax?" Seventy-three percent said no. That is America.

We want leadership, we want everything, we do not want to pay for it. So you have to pay a penalty for leadership.

I believe the American people have been waiting for this for a long time. They have almost given up on the U.S. Congress. Today we have a chance to redeem ourselves.

In a bipartisan way we can tell the American people, yes, it took a long time; $490 billion is a lot of money. But I say to those who look at the tax side only, keep in mind there are lot of people who want to cut defense $240 billion. We did not do that.

A lot of people would not do anything on the spending side. We did quite a bit in agriculture, in the health care field, but mostly providers, hospitals and physicians, very little on beneficiaries, even though my friend from Wyoming said we pay 75 percent of the premiums for some millionaires in Medicare. We should not do that.

But, those who are making notes and keeping books, keep in mind 33 percent of the taxes expire in 5 years. About 35 percent of the taxes in this package expire in 5 years; 20 to 25 percent of the balance on excise taxes, taxes that people support on tobacco, on hard liquor, wine. On gas it is down to a nickel.

I want to commend the distinguished Senator from Idaho, whose amendment I think brought that down, saved about $20 billion to people in Idaho and all across America. He is to be commended for it. In fact, I want to compliment him more, if he will vote for the bill. [Laughter.]

But he did a good job. Between 3 and 4 million families are going to get a tax cut in this bill. Those who are in the upper tax brackets who are going to pay a lot more taxes.

I think everybody agreed if you asked the American people do you think rich people ought to pay more taxes, 99 percent would say yes; the other 1 percent would be in doubt. That is not a very rough road to hoe either.

But in this bill, through the so-called Pease plan, and the so-called PEP plan, the person exemption phaseout, which I thank Senator PACKWOOD and the members of his staff for, and it is good policy, we have it now. It has been the law. Only we raised it.

We start to phaseout higher income. I have had people come and say, you are going to phaseout personal exemption. Yes, we have been doing it since 1986, when you get above $50,000 Now we are going to raise it over $100,000 before we start the phaseout.

I would say to my friends on this side, we also took care of the so-called Rosty package which ripped off the working men and women in America by indexing for 1 year. I am looking at the father of indexing, Senator ARMSTRONG of Colorado. That was over the objection, as you know, of the Reagan administration. They would have taken $36 billion out of the pockets of the working people. Only 1 percent of that $36 billion would have come from people making more than $200,000, and we stopped it dead in the U.S. Senate. We do not want it. We want indexing. We do not want to pick the pockets of the poor. That is the Rostenkowski package. Let him do that.

So all in all, this is not a bad little package. I do want to thank my friend from Oregon, Senator PACKWOOD, my friend from New Mexico, Senator DOMENICI, certainly my colleagues in the Democratic side—I would ask I might use 3 minutes out of my leader time.

The PRESIDING OFFICER. The Senator has that right. The Senator is recognized for an additional 3 minutes.

Mr. DOLE. The distinguished majority leader, the chairman of the Finance Committee, the chairman of the Budget Committee, and others on the other side. I also want to thank the Secretary of the Treasury.

When the President's Chief of Staff, John Sununu, the Office of Management and Budget Director, Dick Darman, and Secretary Brady—referred to by some as "The three wise men," they are wise men and they took a lot of heat in this process because they were there to present the point of view of the President of the United States, and did a good job.

Sometimes we did not like everything they suggested. But in the final analysis, they were there to help mold the package.

I can tell you they were still here at 3 o'clock this morning, in my office; on the phone with the President at 2 a.m. this morning to make certain that he was being kept informed, that he fully understood—the four of us and others—that this was sort of how it was going to end up.

So I hope my colleagues on this side would, even though they may have made up their minds, to take one more look, one more look. I really believe the American people are willing to take a little hit. Members of Congress are going to take a hit too in this package, as the majority leader can tell you, a pretty good hit.

But I believe that American people understand that the economy demands that we do something, even though it is easier to do nothing. This is just the start. Do not get any ideas that we have solved the deficit crisis with a $488 billion or $489 billion deficit reduction package. We have just started.

I believe we are setting precedent that might be followed, maybe not, with the summit. Maybe when we see the American people respond, as we finally accomplish this mission, I think those who stood up and made the tough votes are going to be able to go home and say, I did it. I did not want to, but I did it. I was concerned about your children, and I was concerned about your grandchildren. I want to leave some kind of a legacy of leadership other than, well, I passed it on to

somebody else, or we delayed it. But let the next Senate decide it, or wait 10 years and let other Senators decide it. We have waited too long.

I recall working closely with the Presiding Officer when he was Governor of the State of Virginia, because we agreed that we had to deal with the deficit. It had not gotten any smaller. It has gotten bigger. We could not find a bipartisan majority. We have it now.

I would say to all of my colleagues on both sides that we have had some differences. We have had some pretty tough to moments in our caucus on the Republican side, and I assume they have had a difference or two on the other side. I believe that when we finally vote on this package, we can move on to something else where the great majority on each side can agree with one another.

So, Mr. President, I conclude by thanking the President of the United States and the Members of this body who are going to vote for the package, and even those who are going to oppose it, because this is a step in the right direction. We ought to make certain that we take it.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I ask unanimous consent that I be permitted to use my leader time at this time.

The PRESIDING OFFICER. Without objection, it is so ordered. The majority leader is recognized.

Mr. MITCHELL. Mr. President, Members of the Senate, we confront a question which transcends the details of the budget bill before us. There are questions that go to the heart of our system of Government. Can the American Government govern? Can Congress act?

In a representative democracy, can elected officials ask any sacrifice of the President to secure the future? This has been a difficult and demanding experience for all concerned, every Member of this body, every Member of the House, the President and his representatives and associates, and for the American people.

What we have gone through has been described in negative and critical terms across this country for several weeks. Much of the criticism has been justified. Some of it, perhaps not.

But the reality is that whatever the events of the past months, we now come to a critical point, and we face a painful choice. As the distinguished Republican leader noted so accurately, nobody likes to pay taxes. As a result, in a legislative body, in a representative democracy, nobody likes to vote to raise taxes. It is equally true that nobody likes to see cuts in popular spending programs. And as a result, in a representative legislative body, nobody likes to vote to cut popular spending programs. But we all know that the reality we confront is that a budget deficit can be closed by one of or both of two ways. We must either raise revenues, reduce spending, or do both.

This measure does both. Necessarily, in a body of 100 different individuals, representing divergent economic, political, social, cultural interests, the result is not what any one of us would prefer. When you combine that with the 435 Members of the House, and the President's role, there is much to criticize.

But I believe that, on balance, in the mysterious and sometimes unfathomable ways in which democracies function, we produced a reasonably fair and responsible result that deserves the support of every Senator. I know it will not receive the support of every Senator, but I hope it does receive the support of a sufficient majority to make a clear statement to the people not only in this country, but abroad, that the American Government can govern, that Congress can act, and that at least on occasion, we are capable of summoning the courage and will to ask for some part of sacrifice to secure the Nation's future.

Each of us knows that the deficit cannot be permitted to grow as it has over the past decade. Each of us know that the increasing debt and the interest rates that hobble and will ultimately cripple our economy. Each of us know that the only way that interest rates are going to come down over a sustained period of time is if the Federal budget deficit is controlled at least to some extent.

This is a step, an important step, a major step, in that direction. It is essential that this legislation be enacted, much as each of us dislike some or many of its specific provisions.

We do not have the luxury of saying that we will only vote for legislation with respect to which we are in 100-percent agreement. Our Nation does not have that luxury and, most important, those Americans who will live in the next century, our children and their children, do not permit us that luxury. This is the best product that a democratic process, untidy and imprecise as it often is, is capable of producing in this Congress, in this year. Therefore, we must act, and we must act now. We must act in a way that secures the future for our economy and our children.

A "no" vote is an indulgence. It is a continuation of what we have seen for a decade, in which we have permitted, all of us, elected officials, House and Senate, Democrat and Republican, executive and legislative, and the American people, permitted this rising debt to form like a great boulder that is going to roll down the hill and crush the American economy, if we do not stop it now. So I urge my colleagues to join with us in making this the most significant deficit reduction package ever presented in this Congress as reality.

I want to thank all concerned with making this possible, most of whom are present here: The distinguished Republican leader; the ranking member of the Budget Committee, the Senator from New Mexico; the ranking member from the Finance Committee, the Senator from Oregon; as well as the chairman of those committees, Senator SASSER, Senator BENTSEN, and, of course, our distinguished colleague, the chairman of the Senate Appropriations Committee, Senator BYRD.

When you get a group of good people with good judgment and a commitment to the public good who are unanimous in supporting a package, that is entitled to some weight in determining how you will vote. In this case, the combined leadership does support this package. I hope very much that a large majority of other Senators will as well.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All leader time having been yielded back and all the time on the reconciliation package having expired, the question is on agreeing to the conference report of H.R. 5835, the Budget Reconciliation Act for fiscal year 1991.

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

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD] is necessarily absent.

I further announce that if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "nay."

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

The result was announced—yeas 54, nays 45, as follows:

[Rollcall Vote No. 326 Leg.]

YEAS—54

Adams	Dole	Mikulski
Akaka	Domenici	Mitchell
Bentsen	Durenberger	Moynihan
Bingaman	Ford	Nunn
Bond	Fowler	Packwood
Boren	Glenn	Pryor
Boschwitz	Gore	Reid
Breaux	Graham	Robb
Bryan	Heinz	Rockefeller
Bumpers	Inouye	Rudman
Burdick	Jeffords	Sarbanes
Byrd	Kassebaum	Sasser
Chafee	Kennedy	Simpson
Cochran	Kerrey	Specter
Cranston	Kohl	Stevens
Danforth	Leahy	Thurmond
Daschle	Lugar	Warner
Dodd	Metzenbaum	Wirth

NAYS—45

Armstrong	Grassley	McCain
Baucus	Harkin	McClure
Biden	Hatch	McConnell
Bradley	Heflin	Murkowski
Burns	Helms	Nickles
Coats	Hollings	Pell
Cohen	Humphrey	Pressler
Conrad	Johnston	Riegle
D'Amato	Kasten	Roth
DeConcini	Kerry	Sanford
Dixon	Lautenberg	Shelby
Exon	Levin	Simon
Garn	Lieberman	Symms
Gorton	Lott	Wallop
Gramm	Mack	Wilson

NOT VOTING—1

Hatfield

So the conference report was agreed to.

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

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

The motion to lay on the table was agreed to.

(Applause in the visitor's galleries.)

The PRESIDING OFFICER. The Senate will be in order. The gallery is reminded that no expressions of support or disapproval are authorized.

Mr. MITCHELL. 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. JOHNSTON. 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 from Louisiana has the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana has the floor. The Senator from Michigan will be recognized next.

The Senator from Louisiana [Mr. JOHNSTON] is recognized.

DARYL OWEN